

UNIVERSITY OF PENNSYLVANIA

COMMON LAW IN THIRTEENTH CENTURY
ENGLISH ROYAL FORESTS

ELIZABETH COX WRIGHT

A THESIS

IN HISTORY

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

PHILADELPHIA

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PREFACE

The form in which this material is presented requires the following explanation. It was first collected and arranged in one essay to meet the regulations of the University of Pennsylvania regarding doctoral theses. The main argument was then developed in a slightly different way, with much spadework research omitted, and in this guise printed as an article by the Medieval Academy of America in *Speculum* for April, 1928. Offprints of this article appear as the body of the following dissertation. The material omitted from the original thesis in writing the article appears as the appendix, being given in the form of nine notes of varying length. Following this preface, is an outline showing the relation of the notes to the main argument. Inconsistencies in footnote forms, and the over-weighting of the essay by an appendix twice its length, are hereby explained also.

My grateful thanks are due to the Department of History of the University of Pennsylvania, and especially to Professor E. P. Cheyney, for permission to present my thesis in this form. It has enabled me to save both time and money, and to pare away some of the crudities of the original essay.

E. C. WRIGHT.



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COMMON LAW IN THE THIRTEENTH-CENTURY ENGLISH ROYAL FOREST

ELIZABETH COX WRIGHT

IN England during the thirteenth century many large districts were set aside by law and called the King's Forest. Possibly one fourth of the country was so designated.¹ Readers of Ordericus Vitalis and later chroniclers are told that the Norman kings in extending their forests laid waste great tracts of inhabited land, William especially, in creating the New Forest, calling down the Lord's 'displeasure that consecrated churches had been ruined to make a shelter for wild beasts.'² Was a quarter of England made and kept deliberately waste by English kings during the Middle Ages? Modern scholars know that it was not. They know that although called 'forest' and subject to forest law, at least a part was inhabited and cultivated like the rest of the kingdom. Every forest had within its limits tracts of waste; but forest jurisdiction with its courts, and its officers, the justices, wardens, verderers, and foresters, extended far beyond, the nucleus frequently being called the 'covert' and affording especial protection to the beasts, but in no other way a distinct and separate part of the whole.

The inhabitants throughout were subject to the many restrictions of forest law. They could neither kill nor hunt the beasts of the forest, they could not keep large dogs unexpeditated, or carry bows and arrows set in readiness for use, or make ditches or enclosures or buildings to the detriment of the forest. Special permission could be enjoyed, by inheritance, purchase, or gift from the king, to break these regulations, but the penalties of living *infra foresta* could rarely be forgotten.³

¹ See map prepared by M. L. Bazeley for her article, 'The Extent of the Thirteenth Century Royal Forest,' in *Transactions of the Royal Historical Society* (1921), p. 140. The author explains that all afforested districts taken together were spoken of as 'The Forest.'

² Ordericus Vitalis, *Historia Ecclesiastica*, trans. by T. Forester, iii, 260.

³ See introduction by G. J. Turner, *Select Pleas of the Forest*, Selden Society Publications XIII (London, 1899).

A considerable number of the king's subjects were thus aware of the forests. Likewise contemporary records are full of their complaints. Forest grievances, chiefly the questions of boundaries and attendance at forest courts, were brought up at all constitutional crises; Magna Carta contained forest provisions, the Forest Charter of 1217 extended these; Henry III's coming of age continued the struggle concerning boundaries; at the Oxford Parliament the Barons complained of reafforestation; and finally, in 1299, when Edward I, in need of money, agreed to his subjects' demands, he confirmed anew not only the Great Charter but the Forest Charter as well.

So much is well known. Let us go deeper. We find that afforested regions were administered under a law which dealt only with the protection of the trees and beasts, the vert and the venison. How then was the ordinary peace of the district kept? Did the unjust landlord, the recalcitrant tenant, the ordinary malefactor, and the felon commit their misdemeanors and crimes without danger of pursuit or punishment? In speaking of the jurisdiction of the forest, Manwood, the sixteenth-century authority on forest laws, says: 'There can be no trespass committed by any offendour in the Forrest, but the same must be in one of these three points, that is to say, a hurt to the Forrest, to the Vert, or to the Venison.'¹ In the rolls of the forest courts we find no evidence of disputes of inheritance, disseisin, debt, ordinary trespass, or robbery. Assaults are brought up and punished only when they are connected with offences against the beasts and trees, or against forest officials. Neither do cases of slaying occur on the rolls, except when poachers are the slayers or the slain. Are we then to understand Manwood's statement to mean that no crimes were ever committed in the forests? Records as well as tradition tell us quite the contrary. Even without direct evidence we might postulate that crime did not stop at the borders of the forest, that men did not cease to be litigious in a litigious age when fate cast their lot within the boundaries of a forest; and further, that the ordinary law of the land punished crimes and settled disputes therein as well and as ill as anywhere else.

¹ John Manwood, *Treatise of the Forrest Lawes* (1st ed., London), 1598, chap. i, 7.

If this were not the case, not only would social conditions within afforested regions have been chaotic beyond bearing, but, further, the thirteenth-century struggles for disafforestation would take on an aspect of great constitutional significance. Forest law was king-made law, only partially held in bounds by the Forest Charter and its confirmations, a law rigorously enforced by royally appointed officials. Its restrictions were imposed upon that considerable portion of England called 'forest.' If throughout this great extent of at least partially inhabited land only an arbitrary law existed for the protection of forest dwellers, we are forced to the conclusion that in the thirteenth century the king was autocrat indeed. Great nobles and churchmen as well as humble villeins were brought to judgment in summary fashion, and frequently heavily fined, by forest officials.¹ Throughout the rest of England a law was growing up, which, at least in disputes concerning land, bound king and subject alike. If this law did not hold in the forest, then the barons, instead of demanding merely that some of their lands be released from forest law, fought for the extension of common law over lands hitherto withdrawn from it. Such is the interpretation of M. Petit-Dutaillis. In *The Forest*, he says: 'From a legal and political standpoint, the forests were an anomaly. They were withdrawn from the operation of the common law and of the custom of the realm, and governed by rules laid down in special assizes and ordinances. . . . The forest was the stronghold of arbitrary power.'² Consequently, he reasons, when the forest areas were considerably restricted under pressure, the king's great power was appreciably lessened.

But was this the case? The weight of opinion, to be sure, agrees with M. Petit-Dutaillis. Blackstone in the *Commentaries*, Lewis, a pioneer in the study of forest law, and Stubbs in his *Constitutional History*, state positively the opinion that, through the application of special laws made to protect the king's game and timber, the

¹ Such great men as the Earls of Derby, Arundel, Warwick, and Gloucester, John Crakehall, the King's Treasurer, and the Bishop of Bath and Wells, were forced to appear at forest courts during the century. Others were imprisoned and fined to the extent of two hundred pounds. See the forest rolls, *passim*, and the articles on 'Forestry' in the *Victoria County Histories*.

² Charles Petit-Dutaillis, *Studies and Notes Supplementary to Stubbs' Constitutional History: II, The Forest* (Manchester, 1914), p. 165.

afforested areas of mediaeval England were exempt from common law. Many writers, authorities on mediaeval law like Maitland and Holdsworth, and students of forest customs like Turner and Bazeley, give the matter small space and attention. From their writings it is evident that they have not considered the question. Only Inderwick, in *The King's Peace*, a short popular account of early law courts, is in direct disagreement. 'If a . . . *transgressio* . . . were committed in the forest,' he writes, 'the common law judges had the trial of it and it accordingly went to the County Court, or the justices of the assize.'¹

It is, indeed, reasonable to suppose that afforested areas were subject to the two laws — forest law protecting the vert and venison, common law adjusting relations among men. They had functions which did not overlap; each was adequate only for its own purposes. But the question is not so simple of solution. The difficulties in the way are many, and not the least interesting aspect of the situation is that in actual practice the two laws did overlap, to the confusion of thirteenth-century lawyers as well as modern students.

To put our supposition on a sounder basis than its reasonableness, we must, first, ascertain what places were certainly subject to forest law within specific dates, and second, find evidence of the working of common law in those places within the same dates. Some of the difficulties are these. In the first place, thirteenth-century legal documents, although abundant, are not complete. It is frequently impossible to find mention of any place in different records dated with any degree of contemporaneity. In the second place, the bounds of the forest underwent many changes during the century. The Forest Charter, and every subsequent confirmation, was the occasion for new perambulations and attempts at settlement. In the third place, many lands within legally determined bounds were released by ancient custom from forest law. Thus it may be seen that the bounds of every forest under discussion must be ascertained accurately, conflicting evidence, of which there is much, weighed, and the dates kept carefully, that the status of every place must be separately considered in the light of all evidence, before it can be called afforested at any particular time.

¹ F. A. Inderwick, *The King's Peace* (London, 1895), p. 153.

This is the yardstick which has been used in the following pages. If any place was within forest limits as set forth in black and white, signed, and sealed with the seals of those concerned; if the inhabitants of that place were called to forest eyres corporately as witnesses; if an offence against the forest was proved to have been committed within that place; and if no record has been found telling of a liberty enjoyed by the lord or tenants of that place, then that place has been considered properly afforested and subject to forest law. If there was, at approximately the same date, a manor court there; or if its inhabitants sued or were sued in any common law court, local or central; if any dweller therein was called to a common law court for an offence committed therein, then that place was certainly subject also to common law. Many doubtful cases have been discarded, but nevertheless, county by county, the evidence piles up; afforested land, subject to all the restrictions of forest law, was as much a part of the ordinary system of courts as any other land.

A word must be said to explain the use of the term 'common law' in this study. To-day, 'common law' implies a contrast to statute law. Earlier, common law was contrasted with civil, Roman, or canon law. In the twelfth century, however, the term was used in making a distinction between the ordinary law of the land, as administered in manorial, hundred, country, or king's courts, and any other special law, forest law, canon law, law merchant, or what not. Such a distinction was drawn by the author of *Dialogus de Scaccario*, as Maitland points out. Concerning the term *ius commune* as used in this discourse on the Exchequer, Maitland explains, 'The forest laws which are the outcome of the King's mere will and pleasure are contrasted with the common law of the realm.'¹ In the following pages, therefore, the phrase denotes the law and the legal machinery which took care of the usual crimes, misdemeanors, trespasses, and other disputes which occurred throughout England.

To begin with Huntingdonshire. It is a county of especial interest because during most of our period the Forest of Huntingdon extended to the county limits. The metes as given in the perambula-

¹ Pollock and Maitland, *History of the English Law* I (2d ed.), 176, 177.

SKETCH-MAP-OF-THE FOREST-OF-HUNTINGDON





tions may be followed on a modern map; they correspond with accuracy to the county boundaries. From the beginning of the century to 1218, from 1227 to 1298, they held as the legal limits of the forest.¹ From the records of the forest eyres and from other scattered sources, we get evidence from time to time that specifically named places, usually manors or townships, suffered from forest law.² Only such places are cited below, and evidence of common law in those places is used only if nearly contemporaneous with forest documents.

That there were manors in Huntingdonshire is suggested by the terms used in the records of the forest eyres. We read of open fields, common of pasture, and the reaper. Further, non-forest records frequently mention them, and with the manor went the manor court, quite as regularly in forest manors as anywhere else in England. There are numerous entries in our various records concerning these courts. 'Richard, who holds in Yaxley, does suit to the Abbot's court in Yaxley, three weeks to three weeks.'³ 'Geoffrey le Moynes holds Little Paxton and does suit to the court of Lord Robert.'⁴ 'Philip Aleote holds a messuage with sixteen acres in Offord Cluny, and does suit to the court of the Lord three weeks to three weeks.'⁵ The Abbot of Ramsey held courts in King's Ripton, Little Stukely, and Elton, of which rolls for the third quarter of the century are printed.⁶ In Southoe also there was a court held three weeks to three weeks,⁷ and in Brampton John de Hastings had a court.⁸

¹ The following are the dates of the extant perambulations: 2 Henry III. P. R. O., *Exch.*, *T. of R.*, *For. Proc.*, Roll 38, mm. 1 and 2d; 3 Henry III, *ibid.*, Roll 38; 9 Henry III, *Rot. Litt. Claus.*, ii, 209; 28 Henry III, *Exch.*, *T. of R.*, *For. Proc.*, Roll 38, m. 3, and also printed in *Cartularium Monasterii de Rameseia*, 3v., Rolls Series, London, 1884, i, 209; 14 Ed. I, *Exch.*, *T. of R.*, *For. Proc.*, Roll 43, and also printed in *Cart. Rams.*, i, 211; 28 Ed. I, *Cart. Rams.*, ii, 299.

² There are two full eyre rolls for this county from which the necessary information has been gathered: 39 Henry III, *Exch.*, *T. of R.*, *For. Proc.*, Roll 41, and 14 Ed. I, *ibid.*, Rolls 44, 45, 46. The former is printed in *Select Pleas of the Forest*, pp. 11 et seq.

³ *Rotuli Hundredorum* (2vols, Record Commission, London, 1812), II, 640.

⁴ *Ibid.*, p. 672.

⁵ *Ibid.*, p. 683.

⁶ F. W. Maitland, *Select Pleas in Manorial and other Seigneurial Courts*, i, Selden Society Publications II, London, 1889.

⁷ *R. H.*, II, 659.

⁸ *Placitorum in Domo Capitulari Westmonasterensi asservatorum Abbreviatio*, Record Commission, London, 1811, p. 228.

Suit was owed from the free tenants of Hemingford Abbas and of Elton to the court of the Abbot of Ramsey at Broughton.¹ The business of these courts was the same as the business of other manorial courts. According to the Hundred Rolls, view of frankpledge was claimed in Ellington, Brampton, Alconbury, Dillington, Doddington, Yaxley, Elton, Offord Cluny, Waresley, Molesworth, Hamerton, Washingley, the Hemingfords, Stanton, Gransden, Southoe, and Stoughton.² Assize of bread and ale was claimed in Ellington, Wooley, Brampton, Alconbury, Elton, Alwalton, Flecton, Stanground, and Chesterton; and gallows in Glatton, Molesworth, Ellington, Wooley, Hamerton, Brampton, and Alconbury.³ The Lords of Alwalton and Flecton claimed the right of hanging thieves and excluding the coroners from their lands.⁴ The jurisdictional franchises of forest manors did not differ, therefore, from those of other manors.

The above evidence only heads the list of courts to which afforrested land in Huntingdonshire owed suit. There are many notices among the records of the county court of Huntingdon, and of the four hundred courts, Leyttonston and Toseland in the hands of the king, Hirstingston and Normancros in the hands of the abbots of Ramsey and Thorney, respectively.⁵ Suit to these courts will be mentioned only from those lands which were, so far as we can tell, not relieved from the forest law. In Bracton's *Notebook* is recorded a case between the church of Sulinguy of Stanton, and Walter Morel, concerning half a virgate and seven acres, which was pleaded in the county court of Huntingdon.⁶ A certain Reginald, a holder in Yaxley, owed suit, we are told in the Hundred Rolls, to the county court.⁷ Another holder in Yaxley owed suit to the Hundred of Normancros.⁸

¹ *R. H.*, II, 680, 656.

² *Ell.*, *ibid.*, I, 197.
Bram., *ibid.*, I, 197.
Alc., *ibid.*, I, 197.
Dill., *ibid.*, II, 666.
Dod., *ibid.*, II, 666.
Yax., *ibid.*, I, 196.

Elt., *ibid.*, II, 656.
Off. C., *ibid.*, II, 666.
Wares., *ibid.*, II, 666.
Moles., *ibid.*, II, 633.
Ham., *ibid.*, II, 633.
Wash., *ibid.*, I, 196.

Hem., *ibid.*, II, 666.
Stant., *ibid.*, II, 666.
Grans., *ibid.*, II, 666.
Southoe., *ibid.*, II, 666.
Stough., *ibid.*, II, 666.

³ *R. H.*, I, 196, 197; II, 633.

⁴ *R. H.*, I, 196.

⁵ *R. H.*, II, 633.

⁶ F. W. Maitland, ed., *Bracton's Notebook* (3 vols., Cambridge, 1887), II, 265, case 316.

⁷ *R. H.*, II, 640.

⁸ *Ibid.*

A certain tenement in Morborne owed suit to the same Hundred.¹ From Doddington and Hemingford Abbas, suit was owed to the Hundred of Toseland.² From Hemingford Abbas, Washingley, Haddon, Stanground, Farcet, and Elton, suit was owed to both county and hundred.³ Washingley, Molesworth, Hamerton, Brampton, Wooley, Folkesworth, Doddington, and Hemingford Abbas owed suit to the Sheriff's tourn.⁴ From Stilton, suit was owed to county, hundred, and Sheriff's tourn.⁵

But not local justice alone was done according to common law in the forest county of Huntingdon. King's justices on assize, sitting at Westminster, or following the king, administered the law in Huntingdonshire as it was administered in other counties. In 1230, Alan of Bassingbourn and Geoffrey Cinee were appointed justices for the delivery of the jail at Huntingdon.⁶ In 1286, itinerant justices sat at Huntingdon, to hear pleas at common law,⁷ in the same year that a great forest eyre was held in the same town. The rolls are full of similar entries for all dates, none of which suggest that the application of the forest law in the county had anything to do with the usual working of the common law.⁸ Most easily traced is the process of the law in respect to pleas in the court *de banco*. All the place-names marked on the map as being certainly subject to forest law appear in the rolls of the king's courts. For instance, at Westminster, in Hilary term, 10 Richard I, but one year before the opening of the century, 'An assize comes to see if Thomas, son of Thomas . . . was seised in demesne of four and a half acres of pasture and apurtenances in Brampton when he died.'⁹ In 1227, Simon de Hal and Ernald de Buketon made Roger Marievelain their attorney

¹ *R. H.*, I, 196.

² Doddington, *R. H.*, II, 685; Hemingford Abbas, *ibid.*, II, 680.

³ Heming., *ibid.*, II, 680. Haddon, *ibid.*, II, 644. Farc., *ibid.*, II, 645.

Wash., *ibid.*, II, 635; I, 196. Stan., *ibid.*, II, 645. Elton, *ibid.*, II, 656.

⁴ Wash., *ibid.*, I, 196. Bramp., *ibid.*, I, 197. Dod., *ibid.*, II, 685.

Molesworth, *ibid.*, II, 633. Wooley, *ibid.*, I, 197. Heming., *ibid.*, II, 680.

Hamerton, *ibid.*, II, 633. Folkes, *ibid.*, I, 196.

⁵ *R. H.*, I, 196.

⁶ *Close Rolls, 1227-1231*, p. 398.

⁷ *Placit. Abrev.*, p. 212.

⁸ *Close Rolls, passim, e. g.*, 1237-1242, p. 449, etc.

⁹ *Curia Regis Rolls*, I, 80.

against Alice de Amundeville concerning land at Stilton.¹ In 1229, an assize came to see if 'Hugo, Abbot of Ramsey, unjustly and without right disseised Richard de Ripton of pasture in Ripton which pertained to his free tenement in the same vill.'² In 1235, 'Sanicula . . . pled against Petronilla . . . for a third part of twenty-nine acres of wood with appurtenances in Bichamstead that pertains to her free tenement which she holds as dower from Juliano de la Haye in the same vill.'³ In 1235, Stephen de Segrave made Richard de Welint' his attorney in his place against the king in a plea of land in Alconbury and Weston.⁴ In 1236, Walter de Deneford and Sarah, his wife, made Thomas de Deneford their attorney against Ivo le Moyne and William de Cuweye and Felicia, his wife, their tenants, concerning a third part of two carucates of land with appurtenances in Grafham and Hemingford.⁵ Among the rolls of the *Curia Regis* we find that 'Peter, son of John, pleas against the attorney of the Abbot of Cluny for four virgates of land with appurtenances in Offord and asks a view of the land. A day is given, etc., . . . and in the meanwhile, let the view be made.'⁶ Other pleas heard *de banco* are cited by Bracton concerning land in Stoughton, Chesterton, Hamerton, Washingley, and Stanton.⁷ Contrary to later practice, some of the civil pleas to be found in Bracton's *Notebook* were held in the court *coram rege*. Of these, pleas concerning land in Alconbury and Dillington, and a plea concerning a trespass at Offord, apply to the present study.⁸ Other civil pleas come from scattered sources. We find recorded that the Burgesses of Northampton claimed that the Abbot of Thorney unjustly took from them toll and customs in his fair at Yaxley.⁹ From the *Placitorum Abbreviatio* we learn that pleas were heard in the court *de banco* concerning Chesterton, Folkes-

¹ *Close Rolls, 1227-1231*, p. 87.

² *Bracton's Notebook*, II, 298, case 360.

³ *Ibid.*, p. 431, case 558.

⁴ *Close Rolls, 1234-1237*, p. 196.

⁵ *Ibid.*, p. 343.

⁶ *Curia Regis Rolls*, I, 455. (2 John).

⁷ *Bracton's Notebook*, case 629 (Michaelmas, 1231); case 269 (Hilary and Easter, 1228); case 681 (Easter, 1232); case 1079 (Easter, 1225); case 316 (Hilary, 1229).

⁸ *Ibid.*, case 1124 (18-19 Henry III); case 1261 (23 Henry III); case 1201 (21 Henry III).

⁹ Wm. Paley Baildon, ed., *Select Civil Pleas*, i, Selden Society Publications III (London, 1890), p. 11.

worth, Hamerton, King's Ripton, Little Paxton, Stanground, and Haddon.¹ Of the records of the feet of fines, or final concords, made in the King's Court at Westminster, there is a calendar volume printed. From this volume we learn that land cases were settled concerning Folkesworth, Paxton, Little Paxton, Stukely, Dillington, Ellington, Lymage, Caldecot, Beachampstead, Doddington, Warboys, Abbot's Ripton, the two Offords, Brampton, Perry, Alconbury, Buckworth, Yaxley, Stilton, and Grafham.²

That proceedings against felons followed the order for pleas of the crown in common law courts throughout afforested Huntingdonshire, we have somewhat scanty evidence. There is sufficient proof, however, that there were coroners in the county.³ The jurors of the Hundred Roll inquisitions 'say that Phillip, the coroner of Ripton, took from the township of Paxton' twelve pence for concealing the fact that they had spoken with a thief.⁴ The lord of Alwalton claimed the right to exclude coroners from his land.⁵ There was a special inquisition

taken before the coroners in full county of Huntingdon in the presence of the Sheriff: Andrew Bukstan killed Richard de Freskeneye, his man, by misadventure. On Saturday, after Low Sunday, 42 Henry III, Andrew had come from the fair at St Ives where he had bought a new sword, which he carried with him to his home at Huntend' and he tried it upon a trestle whether it were stiff or not; the trestle fell and the sword glanced off it and struck Richard, who was sitting too near, in the side; by which misadventure Richard died.⁶

Besides the coroners' inquest, we find another inquisition according to common law, held concerning an assault, after the usual hue and cry, at Weston, Alconbury, the day of St Thomas the Apostle, 18 Edward I.

Reymund de Solerettis, merchant of Figeac, was passing over Brouneswold with his harness and men and was met by certain evildoers . . . who

¹ *Placit. Abbrev.*, pp. 31, 32, 184, 195, 209, 155, 257.

² G. J. Turner, ed., *A Calendar of Feet of Fines relating to County Huntingdon, 1194-1603*, Cambridge, 1913; dates from 1229 to 1294; pages as follows: 17, 12, 43, 45, 40, 19, 20, 20, 40, 39, 37, 40-43, 46, 24, 14, 29, 20.

³ *Cal. Fine Rolls, 1272-1307*, p. 154 (1281).

⁴ *R. H.*, I, 198.

⁵ *Ibid.*, I, 196.

⁶ *Cal. Misc. Inq.*, I, 563 (1258).

attacked him and his men and robbed them of a sum of money about the ninth hour. . . . The said merchant in a dazed state long after the ninth hour came to the towns of Copmansford and Opton, alleging that he had been robbed; the men of those towns followed the said evildoers to the wood of Albrichelee, whither the merchant stated they fled, but could find not them, because he did not immediately raise hue and cry. He raised the hue and cry about mid-day, but it was not pursued beyond the said wood, because it was so dark that it was almost impossible to see.¹

Afterward the robbers were captured and hanged at Lincoln. In the volumes of Letters Close there are a few examples to show that appeals for killing were made in afforested Huntingdonshire. In 1241, a mandate was sent by the king to the Sheriff of Huntingdon ordering him to let Walter, son of Thomas, and John, son of Alice of Molesworth, out of the prison at Huntingdon on security.² They had been appealed by Alice for the death of her husband. In 1242, Walter the Forester, held in the same prison after having been appealed by Matillis for the death of her husband, Walter of Winwick, was to be released on bail until the coming of the justices.³ Neither of these cases is conclusive evidence of the working of common law in an afforested area, because there is no mention of where the crimes were actually committed. However, in *Placitorum Abbreviatio* there are two cases recording this information. Among the pleas of 43 Henry III is the following: 'Brother John de Pypwell, lay brother of Sautry, taken for the death of Simon of Warden, killed at the Abbey of Sautry.'⁴ He refused to answer because he was *uir religiosus*. Also, at the same date, we find that John, son of William de Lake, and Walter Caperun of Huntingdon, were accused of the death of Robert, son of the parson of Houghton, killed at Paxton, and of the burning of the house of the same Robert.⁵ In *Bracton's Notebook* there are several full rolls of pleas in the King's Court, *coram rege*, but none of those applicable strictly to those places determined as certainly subject to the full force of forest law are pleas of the crown. At the period from which the cases in the *Notebook*

¹ *Cal. Misc. Inq.*, I, 419, 420 (18 Edward I).

² *Close Rolls, 1237-1242*, p. 382.

³ *Ibid.*, p. 449 (1242).

⁴ *Placit. Abbrev.*, p. 148.

⁵ *Ibid.*

are taken, the jurisdiction of the two courts, *de banco* and *coram rege*, was not strictly divided between civil and criminal pleas. It so happens, therefore, that the *Notebook* yields no information concerning pleas of the crown in Huntingdonshire, although many cases heard *coram rege* are cited. It is to other counties, therefore, particularly to Staffordshire and Somersetshire, that we must turn for full evidence that in districts subject to forest law, criminal cases were heard in common law courts according to the procedure of pleas of the crown.

The forests of Staffordshire were three: Cannock, called Cannock Chase, Kinver or Kinfare, and Needwood. The latter will not be discussed here owing to lack of material. Cannock and Kinver, for convenience, will not be distinguished in what follows. After determining their bounds at different dates, and examining the forest pleas, a number of townships and manors were found to have been subject to forest law during the greater part of the thirteenth century.¹ As was the case in Huntingdonshire, common law also operated in these places.

Mention of open fields, meadow, and reaper, in the forest pleas, and some little information in the Hundred Rolls, which are, however, incomplete for Staffordshire, show beyond doubt that the manor was the agricultural unit in these two districts, although they were called forests. And with the manor went the manor court and private franchises, as elsewhere. The following are some of the jurisdictional franchises exercised by lords of certain forest manors. The Bishop of Coventry and Lichfield claimed a view of frankpledge at which Little Wirley appeared yearly.² Robert de Somerville, lord of the manor of Alrewas, claimed and was allowed gallows, assize of bread and ale, pleas of the crown, infangenthef, and two free courts yearly, in which he heard the pleas of the Sheriff in his tourn.³

¹ ¹ The perambulations and eyre rolls for Staffordshire have been edited by G. Wrottesley, *Staffordshire Pleas of the Forest*, in *Collections for a History of Staffordshire*, William Salt Archeological Society, V, i (1884). The following perambulations are given: 1286, *ibid.*, p. 166; 1300, *ibid.*, p. 176. The forest pleas are those of 1262, 1271, and 1286, printed on pages 136 f., 140 f., 157 f.

² G. Wrottesley, ed., *Extracts from the Plea Rolls*, *Coll. Hist. Staff.*, Wm. Salt Arch. Soc., VI, i (1885), 244.

³ *Ibid.*, *Extracts from the Plea Rolls*, 1272-1294, as above, VI, i, 247, 270, 285.

Further, Alrewas had a regular manor court that met 'three weeks to three weeks,' or actually, anywhere from every three weeks to once in six weeks, records of which have been printed.¹ The business of this court is regular manorial business, with certain slight exceptions to be discussed later. Thomas Corbet, lord of the manor of Bromley Regis, claimed gallows, assize of bread and ale, and view of frankpledge.² Ralph de Grendon claimed gallows and two free courts yearly in which he heard the pleas of the Sheriff in his tourn, at Swynfen.³ The Dean and Chapter of Penkridge claimed view of frankpledge, assize of bread and ale, and infangenthef in Penkridge.⁴ Hugh le Blunt, who held two thirds of the same manor, claimed gallows and infangenthef.⁵ There was a free court in Arley, we learn from the Hundred Rolls, and Hugh de Audeley and his wife, who held the manor, claimed to have gallows and assize of bread and ale.⁶ Richard de Loges had a court at Rodbaston.⁷ John de Tresel was summoned in the same year to show his title to hold pleas of the crown in his manor of Tresel.⁸ At that time also John de Herunville claimed assize of bread and ale in his manor of Wednesbury.⁹

We find also ample evidence that suit from forest lands was owed to county and hundred. The Hundred Rolls show that the vill of Essington, holders in Rodbaston, in Bobbington, in Evenefield, Lutteley, Nether Penn, Pendeford, Moseley, Tresel, Womburne, and Overton either do suit, or should do suit, at county and hundred in 38-39 Henry III.¹⁰ It is further evident that the local machinery for the administration of justice was the same in afforested Staffordshire as in non-forest districts. Appeals were prosecuted from county court to county court, as in the case of a woman kidnapped from the

¹ W. N. Landor, ed., *Alrewas Court Rolls, 1259-1261, 1268-1269, 1272-1273*; *Coll. Hist. Staff.*, N. S., X, i, 1907, and volume for 1910.

² *Extracts from the Plea Rolls, 1294-1307*, *Coll. Hist. Staff.*, VI, i, 284.

³ *Ibid.*, p. 286.

⁴ *Ibid.*, VII, 5.

⁵ *Ibid.*, VI, i, 246.

⁶ *Ibid.*, V, i, 114; *Extracts from Plea Rolls*, *ibid.*, VI, i, 261.

⁷ *Ibid.*, IV, 209.

⁸ *Ibid.*, VI, i, 248.

⁹ *Ibid.*, VI, i, 270.

¹⁰ *R. H.*, II, 114, 115; *Staffordshire Hundred Rolls*, *Hist. Coll. Staff.*, V, i, 110-113.

vill of Rodbaston.¹ Forest manors, such as Penkridge, Arley, Bromley Regis, Alrewas, and Bushbury, appeared by juries at the Assizes at Wolverhampton and Lichfield.² Two of the Staffordshire coroners of 1293 came from villis within the forest, Alrewas and Bushbury.³ In a case of suicide, the vill of Rushall was cited as not coming in full to the coroners' inquest.⁴ In a case of slaying expressly stated to have been committed within the forest of Cannock, the record runs, 'no Englishry, therefore murder on the Hundred of Pirehill.'⁵ Dwellers within these forest limits, then, owed suit to manor, hundred, and county courts, appeared at the assizes on juries, served as coroners, and on coroners' inquests, and were responsible in their hundreds for murder.

Furthermore, assizes sat at Lichfield, Penkridge, and Bobbington, within the metes, and at Wolverhampton and Stafford on the boundaries, for jail delivery, *novel disseisin*, *mort d'ancestor*, *quo warranto* pleas, and other causes relating to land or persons within the forest.⁶ These pleas were both civil and criminal. Among the civil pleas, land cases were the most common. 'An assize came to see if Ralph de Bushbury had unjustly disseised' certain named persons 'of common of pasture in Bushbury.'⁷ Among many others, we find land in the following forest villis or manors disputed: Swynfen, Rushall, Tresel, Pendeford, Wednesbury, Womburne, Tresel and Seysdon, Shelfield, Rodbaston, Little Sardon, Heiley and Swyndon, Hatherdene, Coven, Bloxwich, Bonehill, and Huntingdon.⁸ Other kinds of pleas heard in the assizes were as follows: 'The King by Attorney sued Philip de Montgomery for withholding from the Exchequer ten marks annually from the four bailiwicks in the hays of Alrewas, Hopewas, Oggley, and Gauley.'⁹ William de Boeles

¹ *Plea Rolls, Henry III, ibid.*, IV, 209.

² *Extracts from Plea Rolls, ibid.*, VI, i, 259; V, i, 114; VI, i, 257, 256.

³ *Ibid.*, p. 256.

⁴ *Ibid.*, p. 269.

⁵ *Ibid.*, p. 273.

⁶ *Ibid.*, pp. 54, 55, 154, 161, 176, and VII, 27, etc. Lichfield was within the metes, but is never mentioned in the pleas.

⁷ *Ibid.*, p. 56.

⁸ *Ibid.*, pp. 297, 231, 291, 217, 270; IV, 191, 203, VI, i, 147; IV, 209, and VI, i, 55; VI, i, 238; IV, 195; VI, i, 232, 237, 233, 214; IV, 209.

⁹ *Ibid.*, VI, i, 251.

appeared against the rider of Philip de Montgomery for taking away the implements and tools of his workmen working near his *curia* of Rushall, the defendants stating that they had found the men of William working in a mine within the King's Forest without a warrant.¹ We read further of trespasses on the lands of John, son of William, son of William de Bentley, at Bentley, of theft of the produce of the land of Alexander de Cotun in Hopewas, of the appeal of Alice de Wodegrave who was kidnapped by Richard de Loges from the vill of Rodbaston, of the theft by the same Richard of six oxen and a bull from the manor of Penkridge and of a horse from Ralph, Canon of Penkridge, and of the above-mentioned slaying in the 'forest of Cannock.'²

Not only did the king's justices of the common law go to Staffordshire to hear pleas relating to men and land in Cannock and Kinver; they also heard them at Westminster. In none of these cases is there evidence of irregularity of procedure. Apparently the justices had no thought that from the point of view of common law these afforested districts were in any way distinct from the rest of Staffordshire. The cases heard *de banco* and *coram rege* are the same in nature as those heard at the assizes or eyres held in Staffordshire. The same place-names crop up again and again. Among them are the following, those cited being only those not mentioned in the previous group except when there is an especially interesting point. Suits were heard concerning land at Amelecote, Bermundescote, Essington, Moseley, Newebrugge, Shenstone, Wednesbury, Whitmor, Stonall, Shareshill, and Darlaston.³ Specimens of criminal cases are these: 'Matilda, the wife of William le Paumer, sued Robert le Paumer and others for ill-treating and imprisoning her for a day and a night at King's Bromley.'⁴ 'William de Mundeville, essoiner of Michael . . . appeared against Walter de Kokesey and others in a plea that they had come to the houses of the said Michael in Bobbington . . . and carried away hay and corn *vi et armis* to the value of a hundred shillings and beat and ill-treated his men.'⁵ 'Simon

¹ *Extracts from Plea Rolls, ibid.*, VI, i, 251.

² *Ibid.*, pp. 225, 252; IV, 209; VI, i, 273.

³ *Extracts from Plea Rolls, Coll. Hist. Staff.*, IV 180; VI, i, 58, 59, 98, 61, 165, 67, 61, 119; IV, 185.

⁴ *Ibid.*, VI, i, 87.

⁵ *Ibid.*, IV, 163.

Mautravers, the parson of Shareshill, appeared against Robert le Fleming for entering his house at Sarneshill *vi et armis*, killing two pigs, and cutting down and carrying away his trees, and committing damage altogether to the amount of sixty shillings.¹ 'Robert the son of Tancre fled for the death of Helie, cleric, and he was in the frankpledge of Adam Fisher of Alrewas; judgment, murder.'²

The foregoing evidence adds considerably to the argument that forest law and common law existed side by side in afforested regions of thirteenth-century England. There is little room for doubt that in Cannock and Kinver forests two laws prevailed: one the forest law, enforced by king's officers, ostensibly for the protection of the beasts and trees of the district; the other the common law, administered as common law was coming to be administered throughout England, by manorial, hundred, and county courts, by itinerant justices, and by justices at Westminster and before the king. We have found in the Staffordshire material more evidence than was disclosed by the Huntingdonshire records, that pleas of the crown were heard in afforested districts in the regular manner in the usual courts, and no evidence at all that any part of the forest was excluded from the protection of common law.

The chief contribution of the Somersetshire material to this study is the large number of examples of robbery, rape, theft, and slaying committed in the afforested manors or vills, and tried in common law courts. Evidence of civil pleas will be subordinated to that of criminal cases, since, as has been seen, in the other counties the latter class of evidence was more difficult to find. The afforested areas of the county were Mendip and Cheddar together, Selwood, Exmoor, Petherton, and Neroche, and the warren, Somerton, which possibly was restricted by forest law, contrary to the custom in warrens. Petherton was usually called a park, although forest pleas were heard concerning trespasses within it.³ From the eyre roll for the forest pleas held at Ilchester, 42 Henry III, and from perambu-

¹ *Plea Rolls, Henry III, Hist. Coll. Staff.*, IV, 169.

² *Ibid.*, III, 96. This case is early — 5 John.

³ W. H. P. Greswell, *The Forests and Deer parks of the County of Somerset* (Taunton, 1905), pp. 86, 87.

lations and pleas printed in various forms, we find evidence of the working of forest law in the manors and townships cited below as being also subject to common law.¹

Passing by the local common law courts in the forests of Somerset, although the material gives ample evidence of their existence, we find many pleas from afforested lands heard in the King's Courts, either on eyre or assize, in Westminster or elsewhere, following the king. A few examples only of civil pleas will be listed although there is an abundance of evidence. Land cases were heard at the assizes at Kilmersdon, Ilchester, Frome, and other places or at general eyres, concerning tenements in the following afforested manors: Ashway, Axbridge, Bossington, Burrington, Charleton, Cheddar, Doverhay, Draycote, Dulverton, Frome, Horton, South Petherton, Winscombe, and Winsford.² It may be noticed that these cases all occurred about the middle of the century, a period when there was little or no meddling with the bounds of the forests, and close to the time when these same places appeared at the forest pleas as subject to forest law.

Very impressive is the number of crimes noted among the pleas as having been committed within the forest limits, and tried at common law. In 1242, the tithings of Almsworthy and Exford were amerced because a man in the first was suspected of harboring thieves who were in the second.³ In 1244, the borough of Axbridge came by twelve to the eyre and numbered the harboring of thieves among their presentments.⁴ Somewhat earlier, Richard de Krues, a villein of Blagdon, killed Herman Dreng of Blagdon and fled. He was in the frankpledge of the vill of Blagdon, and therefore it was in mercy.⁵ Elyas Cute and Walter de Stoke entered the house of Edith de Draycote by night, and carried off the chattels they

¹ See *Patent Rolls and Close Rolls*, as printed in full or calendar, *passim*, *Exch.*, *T. of R., For. Proc.*, rolls 152 and 153; M. L. Bazeley, *The Extent of the Thirteenth Century Royal Forest*; G. J. Turner, *Select Pleas of the Forest*; W. H. P. Greswell, *The Forests and Deer parks of the County of Somerset*; E. J. Rawle, *Annals of the Forest of Exmoor* (Taunton, 1893); and John Collinson, *A History of Somerset*, 3 vols., 1791.

² C. E. H. C. Healey and L. Iandon, edd., *Somersetshire Pleas before Itinerant Justices*, Rich. I — 41 Henry III, and 41 Henry III to end of reign, Somersetshire Record Society, XI (1897) and XXXVI (1921): XI, 405, 166, 426; XXXVI, 8; XI, 140, 236, 147, 417, 428; XXXVI, 128; XI, 122; XXXVI, 67, 82; XI, 392.

³ *Ibid.*, XI, 302.

⁴ *Ibid.*, XI, 237.

⁵ *Ibid.*, XI, 35, 95.

found there. Afterwards the thieves were taken at Draycote, and hanged by judgment of the hundred court of Cheddar.¹ The Hundred of Cheddar came by twelve and swore that Walter Harald was wounded in his house at Cheddar by unknown malefactors.² Certain malefactors robbed the house of the chaplain of Cloford, and because the township of Cloford did not make pursuit, it was amerced.³ William, the shepherd of Dene, who abode in the vill of Cumpton, killed Geoffrey Doggesem and fled. The vill was amerced because William was not in a frankpledge.⁴ Walter Clome was found killed in the forest of Netherham, and two men, sons of Fromund of Duneyet, were suspected and fled. They were of the tithing of Dunyet. Walter was buried without view of the coroners, and therefore the vill was amerced.⁵ The manor of Newton came by six and presented that William de Bikebir' was found drowned in the fishpond of Newton. Englishry was not presented, therefore it was murder.⁶ The Hundred of North Petherton came by twelve and presented that Walter Bragge, Robert Hode, William the little Miller, and Margery, his wife, beat Jordan Heywulf so that he died. William and Margery fled to the church of Petherton, and abjured the realm. William was in the tithing of the Hospital of Petherton, therefore it was amerced. The Sheriff had to answer for his chattels, worth three shillings. Walter and Robert had fled, therefore they were ordered exacted and outlawed. They had no chattels.⁷ Godfrey de Mora and Henry de Fernagu were accused of larceny, fled, and were suspected. Godfrey was in the tithing of Walter the tithingman of North Petherton.⁸ Ranulph Cyssor of la Sute of Winscumbe was found killed in the Sute of Winscumbe. No Englishry, therefore it was murder. The vill of Cumpton did not make pursuit, for which it was amerced.⁹ Robert Cory was found dead in the tithing of Wythecumbe. Englishry was not presented, and therefore murder.¹⁰ The manor of Winsford came by six to the 1242-1243 eyre.¹¹

¹ *Somersetshire Pleas*, XI, 236 (1243).

² *Ibid.*, p. 235 (1243).

⁴ *Ibid.*, p. 49 (1224-1225).

⁶ *Ibid.*, p. 296 (1243).

⁸ *Ibid.*, p. 301 (1243).

¹⁰ *Ibid.*, p. 302 (1242-1243).

³ *Ibid.*, p. 286 (1242-1243).

⁵ *Ibid.*, p. 310 (1242-1243).

⁷ *Ibid.*, p. 298 (1243).

⁹ *Ibid.*, p. 233 (1242-1243).

¹¹ *Ibid.*, p. 322 (1242-1243).

Here at last is abundant evidence that common law crimes committed in afforested areas were tried according to the usual process for pleas of the crown, in common law courts. The Somersetshire material, so far as it has been examined, presents no exception in procedure when the crime was committed in the covert of the forest.

Enough detail has now been presented to prove that in Huntingdonshire, Staffordshire, and Somersetshire, afforested areas were subject, during the thirteenth century, to both forest and common law, and to make clear the method used in arriving at this conclusion. This method has been applied in full to Rockingham Forest in Northamptonshire, and to the Forest of Dean in Gloucestershire, with similar results; and with less detail, but with equal care to other afforested regions.¹ The evidence for some forests has been fragmentary; all care has been taken, however, to avoid error, those places determined as subject to both laws being taken from forest plea rolls and tested wherever possible by other documents.² Evidence from Buckinghamshire, Cumberland, Derby, Dorset, Essex, Nottinghamshire, Hampshire, Rutland, Shropshire, Surrey, and Worcestershire, confirms the opinion that forest law did not exclude common law from the afforested regions of those counties.³ Thus the principal forests of thirteenth-century England are brought within the scope of the argument. In the remaining counties there were either no forests at all, as, for instance, in Lincolnshire, Dur-

¹ Material used in the study of Rockingham Forests is as follows: Patent and Close Rolls, *passim*; Turner, *Select Pleas of the Forest*, for eyre roll, 1255; *Exch.*, *T. of R.*, *For. Proc.*, Roll 74; Bazeley, *Extent of the Forest*. Forest of Dean: *Journals of the House of Commons*, XLIII, 586 f., for perambulations; J. Maclean, *Perambulations of the Forest of Dean*, Bristol and Gloucestershire Arch. Soc., 1890; M. L. Bazeley, *The Forest of Dean in its Relation to the Crown*, Bristol and Gloucestershire Arch. Soc., XXXIII; H. G. Nichols, *Forest of Dean*, London, 1858, Victoria County History, *Gloucestershire*, II, article on 'Forestry.' A variation from the usual procedure, to be discussed below, is found in the *Forest of Dean*.

² The plea rolls used were as follows: *Exch.*, *T. of R.*, *For. Proc.*, Bucks, roll 2; Cumberland, roll 5; Derby, roll 8; Dorset, roll 10; Essex, roll 12; Hants, roll 158; Northants, roll 74 (roll 68 printed in *Select Pleas of the Forest*); Notts, roll 127; Oxon, roll 137; Rutland, roll 139; Surrey, roll 194.

³ References already cited; various calendars of inquisitions; *Journals of House of Commons*, XLIV, 574; perambulation of Hampshire forests, *ibid.*, XLVII, 154; perambulation Bucks forests; Victoria County Histories; W. R. Fisher, *Forest of Essex*, London, 1888; J. H. Round, 'Forest of Essex,' *Journal of British Archaeological Assn.*, New Ser., III; perambulations of forests in Rutland and Nottinghamshire, *Rot. Litt. Claus.*, II, 207, 208.

ham, Cornwall, Kent, Suffolk, Norfolk, Cambridgeshire, Hertfordshire, and Middlesex, or forests the boundaries of which are disputed, or for which determination has proved to be impossible without much further study, such as in Berkshire, Lancashire, Leicestershire, Devon, Wiltshire, Westmorland, Northumberland, Sussex, Cheshire, Herefordshire, Warwickshire, Bedfordshire, and Yorkshire.¹

Our sources exhibited a monotony of agreement with our reasonable supposition that forest law and common law existed side by side in afforested regions, each taking cognisance of the crimes and misdemeanors recognized by it. Here and there, however, interesting local variations appeared, and also in a few instances the working of the laws became confused. Their provinces were occasionally allowed to overlap, or procedure according to one law was practised in the courts of another, or, failed by one law, men tried other means. We will now examine these cases and see that, as in other realms of mediaeval practice, theory sometimes tripped over fact.

It is interesting to notice, however, before taking them up, that forest law officials enjoyed exemption from certain duties required by common law. We read among the letters close: 'The King to the Sheriff of Wiltshire, greeting. Because our verderers and foresters are used to be quit of suit to county and hundred . . . we order that you make Philip de Lya, our forester, quit of suit to county and hundred in his bailiwick.'² And further we find that the Sheriff of Hampshire is ordered not to place Thomas Croc, a verderer in the forest of the Lord King in Hampshire, on assize as juror or recognitor, because verderers and foresters following the custom of the forest should not be placed on such assizes.³

John Manwood, the sixteenth-century student of forest laws, is very explicit about the precise duties of the courts. He says, 'All offences and trespasses of the Forrest must be tried before the officers of the Forrest.'⁴ Nevertheless, a manor court in Cannock Chase considered and punished two men who had offended against

¹ References cited above, especially Bazeley, *Extent of the Forest*.

² *Rot. Litt. Claus.*, I, 560 (7 Henry III).

³ *Ibid.*, II, 94 (10 Henry III).

⁴ John Manwood, *Treatise of the Forrest Lawes* (1st ed., 1598), chap. i, 7.

forest law. Thomas was amerced 'because he withheld pannage in the forensic wood of Alrewas,' and Roger Cocus (later pardoned), 'because he received malefactors in the hay.'¹ On the rolls of the King's Courts also there is occasional record of the hearing of cases which concern breaches of forest law. For instance, Laurence of Preston, lord of Gretwood, having cut down certain woods of his in Rockingham Forest without view of foresters or verderers, the seneschal of the forest wished to stop the wagon loads, but Laurence's men hindred him. After an inquisition at forest law, the case appeared before the king, and Laurence was evidently convicted, although the record is slightly ambiguous.² There were also a number of complaints heard in the King's common law courts concerning the malfeasance of forest officials, a sort of thing that came up more regularly and very frequently at the forest eyres.³

Bracton, in his *Notebook*, recorded a plea which shows the two laws running into one another. The tenement around which the dispute centered was in Dillington, Huntingdonshire, and was afforested at the time. The assize came to recognize whether Richard de Boeles and others had disseised Peter Scissor of his free tenement in Dillington. Richard came to say that he and the co-defendants claimed only common of pasture, and that it was the foresters and not he who knocked down (*prostrata*) the ditch (*fossata*) and by consideration of the verderers.⁴ That is, the foresters under forest law had destroyed a ditch illegally constructed, and the injured party, Peter de Scissor, tried to bring Richard de Boeles and others, who apparently were interested in the matter only because they claimed common of pasture there and had nothing to do with the destruction, to justice under the common law.

On one of the Staffordshire assize rolls there is a case again showing confusion in the minds of men concerning forest and common law. Philip de Montgomery and three others were accused of unjustly disseising Robert le Champyon of twenty acres of land and thirty acres of heath in Otherton and Hatherden. Philip pleaded

¹ W. N. Landor, *Alrewas Court Rolls*, *Coll. Hist. Staff.*, vol. for 1910, pp. 109, 106.

² *Placit. Abbrev.*, p. 278 (13 Edw. I). Other cases, *ibid.*, pp. 238, 294 (26 and 27 Edw. I).

³ *Ibid.*, pp. 206, 265, 291 (12, 3, and 22 Edw. I).

⁴ Maitland, *Bracton's Notebook* (23 Henry III), case 1261.

that, since the tenement was ancient demesne, there could be no writ except the writ of right, and that he had entered by Thedese, Dean of Wolverhampton, and not by a disseisin. He brought forward also that Robert had wished to enclose the land by a fence and a ditch, although the land was within the King's Forest, between two hays. This Philip had prevented his doing by order of the Chief Justice of the Forest. The jury found in favor of Robert, ignoring the point of forest law.¹

By far the most serious case of this type appears on a forest eyre roll, where is reflected a rather astonishing happening which took place in a common law court. At the Northamptonshire forest eyre of 1255, it was presented and proved by the foresters and verderers

that on the Sunday next after the Invention of the Holy Cross in the thirty-fifth year Robert of Corby, Geoffrey Gos of the same town, and Robert the son of Godfrey were taken with the proceeds of their evil deeds to the venison and imprisoned at Northampton. And Robert of Corby now comes and, being convicted, is detained in prison. And the said Geoffrey and Robert, the son of Godfrey, do not come; and they were imprisoned at Northampton in the time of Robert Basset, who was then the sheriff and who is now present. He says that Robert, the son of Godfrey, and Robert Gos were convicted of theft before Geoffrey of Lewknor, a justice assigned for delivering the gaol of Northampton; and by judgment they were hanged. And the said Geoffrey is present and well acknowledges that they were convicted before him as is aforesaid. And he says that there were then present the foresters and the sheriff, who made no mention of the fact that they were imprisoned for trespass to the venison. And Robert Basset who was then sheriff can not deny this; therefore to judgment with him.²

This official omission of detail was costly to the malefactors who were hanged, because under the forest law they would have been released with a fine. Such was the result when, by carelessness or ignorance, a justice of the common law hanged men who were imprisoned for breach of the forest law.

We have so far found in common law records evidence that the two laws in force simultaneously in afforested districts sometimes became tangled, to the possible hurt of those concerned. There is

¹ Wrottesley, ed., *Extracts from the Plea Rolls*, *Hist. Coll. Staff.*, VI, i, 233.

² Turner, *Select Pleas of the Forest*, pp. 33, 34.

one case in the Huntingdon forest records which shows common law procedure used in a forest court. We see that this procedure works stiffly, as if rarely applied.

A certain stranger was found slain in Sapley. Richard Lenveyse, the walking forester, who was the first finder, does not come, nor was he attached, because the verderers say and witness that they made no attachment of the finder of the said man who died or was slain within the metes of the forest, to wit, within the King's demesne wood, nor were they wont at any time to make any such attachment of the finder nor of the four neighbours, nor did they present Englishry by reason of the assize of the forest. And because the law of the land concerning the death of a man ought not to be abated on account of the assize of the forest, the procedure must be according to the form of the pleas of the crown. No Englishry, therefore murder on the hundred of Hurstingstone. And because the inquisition was before insufficiently made, let inquiry be made by the verderers and four neighbouring townships . . . and also by the whole Hundred of Hurstingstone, who say upon their oath that the said Richard Lenveyse and a certain William of Cornwall are guilty of that death. And William was a stranger and unknown, and immediately after that death he went away and as yet has not returned, therefore nothing of his outlawry; and let inquiry be made concerning him. And let Richard be exacted and outlawed. His chattels are sixteen pence, whereof John of Mareham the sheriff will answer.¹

The same action was taken against Richard Lenveyse the forester, and the stranger, William of Cornwall, as would have been taken at a general eyre, or a jail delivery. At this forest eyre, the verderers assisted at the inquisition, and the four townships had been summoned for forest law business, but otherwise the difference could have been scarcely apparent. It will be remembered that, when Geoffrey of Lewknor delivered the jail at Northampton, there were verderers in court, although not very active when the offenders under their charge were sentenced to be hanged. Evidently all the important officials appeared at all the eyres, forest or general; we have seen that they did not distinguish with exactitude between the two laws. It is possible, and it would be very interesting to suppose, that the death of the stranger found slain in Sapley was further investigated in a common law court.

¹ Turner, *Select Pleas of the Forest*, p. 19.

Elsewhere we find the conditions nearly reversed. In one of the most famous forests, one of the few which are still so-called 'forest' to-day, the Forest of Dean, pleas of the crown were regularly presented in the general eyres by means of forest officials, the verderers. This occurred, however, only in a limited portion of the forest, the covert. Throughout the greater part, common law and forest law had their separate courts, with their cases and their procedure kept according to their special forms, as has been already stated in the first part of this paper (cf. pp. 171 ff. above).

To understand the conditions, we must examine the forest more closely. The district called to-day the Forest of Dean, with the addition of a larger area stretching to the Wye on the west and toward the Severn on the east, was, during the thirteenth century, the covert of the forest. A still larger area, taking in the entire peninsula between the Wye and the Severn, stretching north to Newent, was afforested for most of the century, but under dispute when questions of forest boundaries came up between king and subjects. The forest beyond the covert was, as has been said, like other forests, subject to common and forest law, each with its separate administration. In the covert, however, appears an interesting example of the mingling of the two laws. As may be seen from the roll of the Gloucestershire eyre of 1221, procedure with regard to pleas of the crown varied from the ordinary course when the crimes were committed within the covert. According to the usual procedure at general eyres, the roll shows that juries from the various hundreds, townships, and manors presented their cases to the justices. The noticeable and unusual fact is that from the covert 'verderers in the place of coroners present pleas of the forest, because the County records that it used to be done.'¹ The *loquelas de Foresta* were not pleas of the forest in the strict sense, but pleas concerning those happenings that came within the cognisance of common law in dealing with crown pleas, as is obvious in reading the record.

The procedure concerning these pleas was not so clear to the

¹ F. W. Maitland, ed., *Pleas of the Crown for the County of Gloucester before the Abbot of Reading, 1221* (London, 1884), p. 47.

verderers or to the justices as not to need some general statement or definition of custom. Richard of Westbury, Richard of Bleisdon, Richard of Eston, William of Heliun, and Ralph of Rodley, the verderers who presented the pleas of the crown,

say that there is no frankpledge in the Forest, and townships ought not to answer for fugitives; and the county records that a township must answer for all fugitives, and this is found in the rolls of the last eyre, to wit, concerning the township of Bicknor, which was amerced at half a mark for the flight of Gromhugelot who burned a certain house; and therefore to judgment by the verderers.¹

The law as finally decided is this: verderers, not coroners or local juries, present the pleas of the crown to the justices from the covert; there is no frankpledge in the covert, but nevertheless part of the covert, organized into townships, must answer for fugitives. Careful study of local conditions reveals that a large part of the covert was extra-township. We find evidence of this in the nature of the presentments of crown pleas in the roll under discussion. In most cases, the names of the places from which the pleas originated, or which were responsible for crimes, are omitted, the phrase 'within the forest' being sometimes substituted. A few run as follows: 'Lovicus of Staunton killed Walter the Chaplain and fled. . . . he was staying in the town of Staunton, and therefore the township is in mercy.'²

We thus see that common law and forest law, existing, as we have said, 'side by side' in afforested regions, did not each keep to its separate field of action, but occasionally became entangled. The Year Books show us at least one instance of discussion concerning the legitimate business of each. At the Staffordshire Eyre of 1293, John de M. brought an action of novel disseisin against the Earl of Warwick. He claimed that he had been disseised of a hundred acres of wood. The defendant answered that the wood was within the bounds of the King's Forest. The record continues, 'Judgment, if here we ought to answer at the common law of a thing that touches vert; inasmuch as pleas of vert belong to the Justice of the Forest in eyre.' The defendant returned that the wood was in a chase and not a forest, and therefore he had no remedy except at common

¹ Maitland, *loc. cit. supra*.

² *Ibid.*

law. When it was brought up that the wood, although now in a chase, used to be in a forest, the plaintiff said, 'If we can not have a remedy by this writ at common law, give us a remedy.' This request the justice said was not within his power to grant, but he finally pronounced that the wood, although now a chase, was still within the bounds of a forest, and that they must await judgment if here 'we ought to answer of a thing which touches vert.' Here the case ends except for the note that the parties came to terms later.¹

And so we must leave the matter. John de Berwick, the justice before whom the preceding case was heard, confronted by the interplay of the two laws, was forced to say, 'Await judgment.' We, who look over the records of the century, pronounce with more certainty. We have found that, in ordinary course, forest pleas were heard in forest courts, and the criminal or civil pleas which originated from the same districts were heard in common law courts. We have found, for the most part, that the exceptions to the rule — if the meagre records can be trusted — caused little difficulty, although in the Sapley murder case search for the slayer was delayed, and in the Northampton case two men were hanged by mistake.

¹ *Year Books of the Reign of Edward I* (Rolls Series, London, 1866), *Year Book*, 20-21 Ed. I, pp. 424 f.

APPENDIX

Note A to page 168

In 1209, the Sheriff of Rutland was in mercy of the court for not producing prisoners with whom the foresters had intrusted him.¹ In the same year, Robert Corbett, a baron, was pardoned for not having his son, a malefactor to the venison, at a forest court, but a day was given him to do so, *coram rege*.² In 1216, William Ferrers, Earl of Derby, Ralph Hamilton, Earl of Arundel, Ralph Bigod, brother of the Earl of Norfolk, and Robert le Breton were cited in a forest eyre court as venison offenders. Robert le Breton was in mercy for twenty pounds.³ The same year, Mathew of Hathersage, a baron, was convicted of having a buckstall, and amerced for twenty marks.⁴ In 1250, the Earl of Gloucester was charged with taking four does; he was able to plead an order of the King, and so escaped the consequences.⁵ In 1255, John of Crakehall, King's Treasurer five years later, was in mercy of the court for harboring Gervase, a poaching clerk, his cook.⁶ In 1257, the Bishop of Bath and Wells was amerced and made to forfeit his woods for not presenting his woodwards to the forest justices.⁷ Two years later, Master Alexander, Rector of Powick, took a buck, was imprisoned, and paid forty marks to be released.⁸ In 1279, William de Beauchamp, at the time of the eyre Earl of Warwick, took three hinds, and the Sheriff of Worcestershire was ordered to produce him in court.⁹ Richard de Loges, the lord of Rodbaston in Staffordshire, was imprisoned for taking venison.¹⁰ Philip of Marmion, Lord of the Castle of Tamworth, had to answer before Parliament for taking a buck, and if the King should not be satisfied, his fine was to be fixed at two hundred pounds.¹¹ These great names are chosen at random from the records and from secondary accounts of individual forests based on the unprinted records. The procedure in forest trials was most arbitrary: imprisonments were made for surety, and might last for a year and a day before the case came up in court; foresters and verderers presented as

¹ *Select Pleas of the Forest*, 7.

² *Ibid.*, 9.

³ *Victoria County History, Derbyshire*, i, 401.

⁴ *Ibid.*, 402.

⁵ *Victoria County History, Worcestershire*, ii, 316.

⁶ *Select Forest Pleas*, 12.

⁷ *Victoria County History, Somerset*, ii, 551.

⁸ *Ibid.*, 551.

⁹ *Hist. Coll. Staff.*, v. pt. i, 142.

¹⁰ *Ibid.*, 145. Date, 1271.

¹¹ *Ibid.*, 161. Date, 1271.

proved that certain offences had been committed, and the justices declared the penalty.

Note B to page 168.

There has been, on the whole, a good deal written about the royal forests. Lawyers have been interested in points of forest law; students of constitutional history have drawn conclusions from the struggle for disafforestation that stormed throughout the thirteenth century; local antiquaries have quarried for interesting bits concerning ancient customs in the parishes and counties they describe so exhaustively. From the *Treatise of the Forrest Lawes*, written by John Manwood, and printed for the first time in 1598, to the essay on the extent of the forest among the *Transactions of the Royal Historical Society* for 1921, there have been written many interesting and some valuable histories of special forests, and accounts of certain aspects of the forest system. In none of these is the question of common law in the forest put and discussed; in few is it answered even casually.

Perhaps the course taken by the study of royal forests is partially responsible for this. During the reign of Elizabeth, John Manwood, a barrister of Lincoln's Inn, and Justice of the New Forest,¹² wrote his description of the forest laws, a work of learning and literary value, which ran into a number of editions during the next century. Its validity for an earlier period has only recently been questioned. In Manwood's day, the forest system had shrunk and decayed, although popular memory could still recall former days, and in the seventeenth century, Charles I could still think of reviving the old restrictions for the sake of his empty purse. It is not strange, then, that this sixteenth century treatise, a codification and an idealization, should not apply in every detail to the thirteenth century, when forest law presents its most interesting problems to the observer of the present day. But so convincing is it, and so well presented, that it remained the standard work even throughout the eighteenth century when other aspects of the law were being reexamined. During the last century a few general works appeared, beginning with Lewis's *Forest Laws*, following the tradition of Manwood. Further, a number of histories of particular forests written chiefly by local antiquaries from local records, are available. Much of the material used in these, however, deals with later centuries when prominent families held forest offices as sinecures from the Crown. The publication for the Selden Society of *Select Pleas of the Forest*, with its careful and informative introduction, opened to the view of students the possibilities in the records lying in the Public

¹² *Dictionary of National Biography*, article on John Manwood.

Record Office. Recent investigation has centered around specific problems in respect to the history of forests, or forest laws. The result, therefore, has been, that in spite of reawakened interest and much excellent scholarship, certain generalizations and preconceptions still linger even in the pages of the most modern and scholarly writers. No attempt has hitherto been made to correlate the information to be gained from forest records with that scattered throughout other documents, particularly the rolls of common law courts, in order to find out whether common law held in the forests.

The opinion that the afforested areas of medieval England were, through the application of special laws made to protect the King's game and timber, exempt from the common law, has been practically unanimous. It may well be that a misreading of Manwood is the cause of this. He himself is not very precise about the matter, although a careful reading of his treatise suggests that he would have been surprised at the usual interpretation of his remarks. Speaking of his own day, he says, "Justices in Oyer and Justices of Peace cannot determine trespasses done in forests."¹³ This statement, and one or two others to the same effect, apparently were the grounds for Blackstone's definition of the duties of the justices of the forest eyre. They were, he writes in his *Commentaries*, "To hear and determine all trespasses within the forest, and all claims of franchises, liberties, and privileges, and all pleas and causes therein arising."¹⁴ Percival Lewis, writing in 1811, makes the still broader assertion that forests were not subject to the common law, "having always been kept distinct and separate from it."¹⁵ It is not remarkable that later scholars, writing only casually of forest customs, should accept this statement without question. Stubbs and Taswell-Langmead, in their constitutional histories, Maitland, Holdsworth, Carter, and Jenks, in their histories of the law, giving the matter small space and attention, take with greater or less precision, the position of Blackstone and Lewis. The opinion of Stubbs rests on a passage in *Dialogus de Scaccario* regarding forest jurisdiction, which, like the statement of Manwood, is open to two interpretations. The author of the Dialogue goes no further than to say that "The punishment or the absolution of those who transgress with regard to them" (that is, the forests; italics not in text) "is kept separate from other judgments of the kingdom,"¹⁶

¹³ Manwood, *Treatise of the Forrest Lawes*, 4th ed., 59.

¹⁴ Blackstone, *Commentaries*, 4th ed., Bk. III, ch. 6, 72.

¹⁵ Lewis, *Historical Inquiries concerning Forests and Forest Laws*, 9.

¹⁶ *Dialogus de Scaccario*, i, 11.

and that "Those who transgress with regard to the forest are subject to the royal displeasure alone."¹⁷ In citing these passages, Stubbs interprets, "The forests, we are told by the author of the *Dialogus de Scaccario*, were peculiarly subject to the will of the King; they were outside the common law or right of the Kingdom; they were not liable to be visited by the ordinary judges of the Curia Regis; . . . they had laws and customs of their own."¹⁸ The contingency overlooked so far in these modern commentaries is, that their authorities, in lawyer fashion, may have in mind a finer distinction; they do not say in so many words that common law was excluded from the forests, and that ordinary justices did not visit them to punish offences against the common law, but only that common law justices did not visit them to hear forest pleas, which is quite reasonable. Even this is not entirely accurate, however.¹⁹

So firmly fixed has this interpretation become, that even modern scholars devoting their attention entirely to the forests, have not examined it critically, nor in some cases tested it at all. Petit-Dutaillis, however, in one of the most recent and general discussions of forest customs, is led to emphasize to a degree unwarranted if this interpretation be false, the constitutional aspect of the struggles for disafforestation which were finally won by the barons against the King in 1299 and 1300. He writes, "From a legal and political standpoint, the forests were a dangerous anomaly. They were withdrawn from the operation of the common law and of the custom of the realm, and governed by rules laid down in special assizes and ordinances. . . . The Forest was the stronghold of arbitrary power."²⁰ Consequently, he reasons, when the forest areas were considerably restricted under pressure, the King's great power was lessened. Another aspect of the situation is suggested in the thorough and definitive account of the Forest of Dean in its relation to the Crown, published by the Bristol and Gloucestershire Archeological Society.²¹ Apparently assuming that a district suffering under the forest law was relieved from the restrictions of the common law, the writer compares the two: "As to its severity, the forest law even at its worst was probably not much more harsh than the ordinary law could be; at its best, the comparison was in its favour."²² And again, "The law relating to theft in the forest, at least

¹⁷ *Ibid.*, i, 11.

¹⁸ Stubbs, *Constitutional History*, 6th ed., i, 434.

¹⁹ Several offences against the forest law punished in common law courts will be quoted below.

²⁰ *The Forest*, in *Studies and Notes Supplementary to Stubbs*, ii, 165.

²¹ By Margaret L. Bazeley, xxxiii, 153-285.

²² *Ibid.*, 276.

from 1217, was lenient compared with the law elsewhere. At a time when the ordinary thief who stole more than a shilling worth was lucky if he escaped mutilation or hanging, the stealer of venison generally got off with a short imprisonment and a moderate fine.”²³

Although the trend of opinion clearly leans toward the belief that common law did not obtain in afforested districts, some writers, such as the editor of the Selden Society volume, do not mention the subject, and some merely state the contrary with no recognition of the fact that there is disagreement. Others touch the matter so lightly that their views are not clear. Among the latter is the author of the aforementioned article on the Forest of Dean. From this article we learn that “The verderers had the . . . duty of representing the forest in place of coroners when the King’s justices came round for pleas of the Crown and fulfilling the coroners’ function within the forest.”²⁴

There is no evidence that any of these writers have questioned their own immediate interpretation of the *Dialogue*, or Manwood’s *Treatise*. Both of these sources, the one devoting only a section to the forest laws, and the other written long after the decay of the system, may be read in the light of whatever theory one may accept, although a close reading of more than isolated passages inclines one to the opinion that neither writer intended to convey the idea that forest law excluded common law from afforested districts. Heretofore, however, it has almost universally been held that such was the case.

Note C to page 170, determination of the bounds of the Forest of Huntingdon.

The plan of the study is as follows: First, all the available information regarding the forest district in the county of Huntingdon is gathered, and a picture of legal conditions therein is drawn as fully and as explicitly as possible. This part of the task shows the difficulties in the way of generalization, and indicates that many hitherto accepted statements about forests must be reconsidered. The general applicability of the findings for Huntingdonshire is then tested by the Staffordshire records, which are nearly as full as those for Huntingdonshire. Other forests are next examined to throw light where it is still needed, and to add evidence where more weight must still be massed before definite results may be reached. One of the most certain and least satisfying results of the investigation is the conclusion that the closer one gets to the records, the more blurred grow the

²³ *Ibid.*, 264.

²⁴ *Ibid.*, 211.

outlines of the subject. There are evident, first, frequent inconsistencies even in the official forest documents, second, many confusions and uncertainties acknowledged by the recorders themselves, and third, even when the law is precise, a very complex intermixture of law and actuality.

The initial step to be taken is to determine as accurately as possible the boundaries of the Forest of Huntingdon in the thirteenth century. Forest areas throughout England underwent considerable restriction and extension during the period, and, in general, the history of the forest in Huntingdonshire ran parallel to that of other forests. In the reign of John, the forests of few counties were either enlarged or reduced; that of Huntingdon remained, so far as the records show, for those seventeen years as it had been. After the issuing of the Forest Charter, however, which promised perambulations, and, in certain cases, disafforestation, there was great activity, and constant discussion as to the proper metes and bounds. The exact chronology of the dispute is difficult to follow, but the course of events may be approximately determined.

The first perambulation of which there is any trace among the Huntingdonshire Forest Proceedings at the Record Office, is dated "the morrow of St. Swithin, the second year of the reign of King Henry III."²⁵ The order for this perambulation, following the grant of the Forest Charter, is not to be found among the printed letters patent or close. The evidence of the document is twofold. First, it provides information concerning the afforestations of Henry II, and the parts of the forest that were already afforested at his accession. Only the former parts were, according to the Forest Charter, to be disafforested; the latter, of which the bounds, however, were often disputed, were acknowledged by all to be properly forest. Second, this document gives the metes and bounds of the anciently afforested parts. As to the information concerning the afforestations of Henry II, we are told: "These perambulators say upon their oath that King Henry, grandfather of this King Henry, son of King John, afforested all of Huntingdonshire after his first coronation, except Weybridge, Sapley, and Herthey; and then the woods of Brampton and Alconbury were demesne woods of the Lord King, and King John gave the woods of Brampton and Alconbury to Earl David with the manors, and so in the discretion of the Council of the Lord King whether they remain in the forest or not. These are the metes and bounds," etc.²⁶ They thus declare that, according to the Forest Charter, which provided for the disafforestation of all lands put in the forest by Henry II, all of Huntingdonshire should be dis-

²⁵ *Exch., T. of R., For. Proc.*, Roll 38, mm. 1 and 2d.

²⁶ *Ibid.*, m. 1.

afforested again, except Weybridge, Sapley, and Herthey, anciently forest, and the woods of Brampton and Alconbury, if the Council should so decide. The immediate result of this perambulation can not be determined. Enrolled with the 1218 and later perambulations, however, is a document which suggests a solution of the problem, but which, because the membrane is badly rubbed, can not be dated accurately enough to be positive evidence on the point. It is the record of a perambulation of the year 2 Henry III, month and day not to be deciphered, giving the metes and bounds in the words of the perambulation dated the morrow of St. Swithin in the same year, with the following addition: "And because the afforesaid perambulators placed the grove of Weybridge and the wood called Kingsho . . . outside the forest . . . let the whole of Huntingdonshire remain forest as it was before and . . . the aforesaid . . . (perambulators?) were imprisoned . . . and made redemption to the Lord King at the will of the Lord King."²⁷ The specific reason given for the imprisonment of the perambulators, namely, the exclusion of the "grove" of Weybridge and the wood called Kingsho is not to be found in the other record we have of the July 16 perambulation; nor are the grove and wood mentioned in other documents. However, if the date of the foregoing be within a fortnight of the first perambulation, our way is clear to the next chapter of the conflict, all of Huntingdonshire being still forest, the Charter and the perambulation notwithstanding.

The week after the perambulation of July 16, the Council of the King issued letters patent from Westminster, dated July 24, 1218, stating that "The Lord King accepted the fine which the men of the County of Huntingdon made with the Lord King for disafforesting the forests which ought to be disafforested and separated from those which will remain forest, following the tenor of the charter of liberties of the forest which the Lord King conceded to his honest men of England."²⁸ Making no mention of recent occurrences, the letter further ordered that a perambulation be ridden without delay, by view of legal men of the county, to determine metes and bounds. In disregarding the fact that only two weeks previously metes and bounds had been set forth, the mandate shows that the Crown expected a more favorable report to be returned. Thus early in the century began a struggle which continued to its end.

As to the new perambulation ordered by these letters, it may be that we have record of it in one of the several almost identical reports, one of which is undated, which are inscribed on Roll 38 cited above, or it may be that nothing was done until the following year. At any rate, there is a

²⁷ *Ibid.*, m. 3d, paragraph 4.

²⁸ *Patent Rolls, 1216-1225*, (1218) 162.

copy of a perambulation repeating the first one enrolled, dated the Thursday before the Feast of St. Peter's Chains, the third year of the reign.²⁹ From the Pipe Roll of 3 Henry III, we learn the following: "The men of Huntingdonshire owe forty marks for disafforesting the forests which ought to be disafforested and separated from those which will remain forest, following the tenor of the Charter of the liberties of the forest."³⁰ It is impossible to determine when, if at all, during the year ending with the last of July of the third year of the reign, the limitation of the forest was put into effect. It is evident that the metes and bounds as set forth in the perambulations were expected to become law, but possibly they they did not become so until after the payment of the forty marks.³¹

The results to be gleaned from the documents are so far hard to appraise. It is probable from the silence of the records concerning the reigns of Richard and John, that Henry II's afforestation of "the whole county" was in force at least until the granting of the Forest Charter in 1217. Just how far this was a technical phrase and how far reality will be discussed below. It may be further gathered that after the perambulation of 1218, just how soon after it is impossible to tell, upon payment of forty marks, the men of Huntingdonshire expected to have the limits of the forest in their county restricted to the hays, or demesne woods, of Weybridge, Herthey, and Sapley. One need not add the woods of Brampton and Alconbury to the other three, because they appear to be within the bounds of Weybridge anyway. Probably the point was gained for a few years, the death of William Marshall, the Regent, perhaps distracting the attention of the government from Huntingdonshire. The matter was further challenged in 1221, but of the issue of this inquiry we know nothing.

With the year 1224 begins anew the struggle to settle beyond dispute the extent of the Forest of Huntingdon. In spite of the apparent royal acceptance of the findings of 1218 and 1219, little enough to the royal taste, on the thirtieth of October, 1224, the Justice of the Forest, Hugh de Neville, "was directed to cause the forest" (in the medieval sense of all afforested land, however scattered over England) "to be kept, and the regards to be made, as in the reign of John before the war between him and his barons."³² Not four months later, the Forest Charter was reissued, and in a few days two justices were appointed by royal letter to

²⁹ *For. Proc., Exche., T. of R.*, Roll 38, m. 2.

³⁰ *Pipe Rolls*, 63, roll 6, 3 Henry III, cited by Turner, xcv, note 8.

³¹ See *Patent Rolls 1216-1225*, 258, for order to sheriff regarding inquisition concerning boundaries 13 December, 4 Henry III.

³² *Rot. Litt. Claus.*, ii, 3. Also as cited by Turner, xcvii, Pat. Roll 32, m. 9.

perambulate among others, the Forest of Huntingdon.³³ The perambulation ridden in pursuance of this letter is enrolled with the letters close, and dated Wednesday in Easter week, 9 Henry III.³⁴ It is a copy, with very minor variations in spelling and the like, of the 1218 and 1219 perambulations. Either the truth was very evident to these Huntingdonshire "legal men", or they were very obstinate in proclaiming what was to their advantage. Whether this statement of the desire of the county was put into effect we do not know. It did not at any rate settle the dispute. Not two years after the knights returned their reports, the King declared himself of age and set about examining the privileges granted during his minority in his name. On the twenty-sixth of October, in the tenth year of his reign, a mandate was issued to the Abbot of Ramsey ordering him to have his charters of liberties ready when a new perambulation should be ridden.³⁵ On the eighth of February, in the eleventh year, the King ordered the Sheriff of Huntingdon to call before him at Oxford all forest officials, that their warrants for holding their bailiwicks might be shown, and all people who claimed liberties within the forest; he further ordered him to ascertain the perambulators of the recent metes and bounds, and to have them come to account for themselves.³⁶ The date for this conference at Oxford was fixed for the Monday next before the Feast of St. Gregory. On February ninth he anticipated his action in letters close to the Sheriff of Huntingdon, explaining in it that the perambulators, of 1225 we may assume, had been in error when they said that only the demesne woods had been afforested before the reign of Henry II. The truth of the matter was that his grandfather had merely placed back in the forest districts which had slipped away during the anarchy under Stephen. Let it therefore be proclaimed that the whole county be held forest as it was before the perambulation aforesaid, and that no one shall do anything against the vert or the venison that is contrary to the assize of the forest.³⁷ This interpretation of events was made public in letters patent dated 29 March, 11 Henry III. "The King to all those, etc. You should know that the perambulating knights for the perambulation made in the county of" Huntingdon, among others, "between the parts of the same county which ought to have been disafforested," etc., "came before us and acknowledged that they in that perambulation had transgressed against us, and begged to be pardoned by us for that transgression. Where-

³³ As cited by Turner, xcvi, Pat. Roll 32a, mm. 6, 5d.

³⁴ *Ibid.*, ii, 209.

³⁵ *Rot. Litt. Claus.*, ii, 157.

³⁶ *Ibid.*, ii, 206.

³⁷ *Ibid.*, ii, 169b.

upon we were led to pardon the transgression in its entirety; so that they or their heirs can not be held liable by us or our heirs in this matter forever."³⁸ Apparently a fresh perambulation was intended, but there is no record that it was ridden.³⁹ After the proclamation that the whole county was to be afforested, there was really no need for further definition.

If the procedure of the Crown appears arbitrary and unfair, it should be remembered that the civil wars of Stephen's reign were the cause of much honest disagreement on the subject of the true boundaries of the royal forests. Those districts which had been disafforested by Stephen, and reafforested by Henry II, did not rightly come under the provisions of the Forest Charter. Henry III evidently was of the opinion that the perambulators of 1218 and 1225 had put out of the forest districts with this history. On the other hand, the men of Huntingdonshire were equally sure, and their sincerity need not be doubted, that only the districts called Weybridge, Herthey and Sapley, should by the right of the Forest Charter be afforested. A little light on this disagreement is shed by a document among the Huntingdonshire Forest Proceedings at the Record Office. It is worth citing in its entirety. Unfortunately it is undated, but its position on the membrane between the perambulation cited above dated the Thursday before the Feast of St. Peter's Chains, 3 Henry III, and that dated the morrow of St. Swithin, 2 Henry III, while proof only that the three records were enrolled at the same time, makes it permissible to use it as a suggestion to clear away some of the difficulties of the quarrel. It appears twice on Roll 38, the second time on a membrane which is clearly a copy, and which contains the other early perambulations as well. The copy is more distinct and in better condition than the first membrane, and was used to assist the reading of the original. The following is a rough translation.

"This is the verdict of the twenty-four knights and free tenants of Huntingdonshire, who were chosen (*electi*) before Lord Hugh, Bishop of Lincoln, and Falcasio, (?) and Hugh de Neville, and Walter Malochto, (?) at Huntingdon in the Chapter House⁴⁰ of the Canons, and the said knights, having been sworn, say that a diligent inquisition having been made by the elders (*senioribus*) and legal witnesses (*fidedignoribus*) of the county . . . that King John afforested no woods in Huntingdonshire, nor King Richard, but that King Henry, father of King John . . . King of England, having withdrawn all the woods of Huntingdonshire, placed them in defense, except his demesne hays which were anciently in defense, and so they remained. And so there grew up in Huntingdonshire

³⁸ *Cal. Pat. Rolls, 1225-1232*, 109.

³⁹ *Rot. Litt. Claus.*, ii, 204b. 7 Nov., 11 Henry III.

⁴⁰ Or possibly *chapel*; the reading either *capitula* or *capello*.

the forest, by whose advice they know not, but it is given to be known that it was done at the wish of the aforesaid king, and so Huntingdonshire remained in the forest, as it is given to be known by the elders and legal witnesses. . . . And from that time bad customs grew up in Huntingdonshire, when Alan de Neville first placed verderers, warders, and regards in Huntingdonshire, and other bad customs by him and his successors,⁴¹ and they multiplied these up to the present day, just as evils are multiplied in England." They go on to say that the two perambulations just made were rightly made, by knights and free tenants of the county, that as they had given their forty-one marks, (not forty, as in the Pipe Roll,) on advice of the King, to get seisin, they beg that they may have the aforesaid seisin.⁴² And then, "The twenty-four *jurati* say that King Henry, father of King John, after his first coronation, had had a diligent inquisition made as to what woods ought to be in the forest and what wood out of the forest, and they responded that he ought to have no forest in Huntingdonshire except the demesne woods, and unreasonably, the King had placed all the woods in Huntingdonshire in defense,⁴³ and in such a manner was Huntingdonshire afforested."

The remaining years of the life of Henry III, the large part, of course, of his reign, show that, practically speaking, the King was the victor in the contest as to the proper boundaries of the forest. As the result of a general inquisition concerning the condition of the forests,⁴⁴ there is preserved in the Ramsey Chartulary,⁴⁵ and among the Forest Proceedings,⁴⁶ specific information concerning the state of the forest toward the middle of the reign. The document, dated 7 January, 1244, is headed, "An inquisition of assarts and purprestures made in the forest of the Lord King in Huntingdonshire, before Robert Passelewe," etc. There is given a list of those sworn in, who say, "on their oath that these are the metes between the counties of Huntingdon, Northampton, and Cambridge, of the forest of the Lord King in the County of Huntingdon."⁴⁷ There follow metes and bounds which can be traced somewhat roughly on the Ordnance Survey map, and which coincide more or less accurately with

⁴¹ This translation is very free. The writing is difficult to read, and the Latin is both bad and repetitious.

⁴² There is a phrase at this point which suggests that this seisin had been enjoyed for a year.

⁴³ Reading difficult at this point.

⁴⁴ Reference cited from Mathew Paris, *Chron. Maj.*, Bohn, ii, 40, by Bazeley, *Forest of Dean*. No other mention of this general inquisition has been found.

⁴⁵ *Rams. Cart.*, i, 209.

⁴⁶ *For. Proc., Exch., T. of R.*, roll 38, m. 3.

⁴⁷ *Rams. Cart.* i, 209.

the bounds of the county as they are drawn today. These details are valuable in testing the earlier statements of the perambulators that Henry II had afforested the whole county. Further, it is quite evident from this document that at least in 1244 Huntingdonshire was officially entirely afforested, the 1225 perambulation notwithstanding. As for the years between, we can only conjecture that the King's proclamation in 1227 was carried out. It really remains a question whether or not the whole county constantly and uniformly suffered under the restrictions of forest law during the entire period.

In following the perambulation of the county of Huntingdon, which is at the same time, according to the document, the perambulation of the Lord King's forest of Huntingdon, we find certain unidentifiable names, and certain large gaps in our information. On the accompanying map, the present county line is followed wherever the record fails to be explicit enough for our purpose. However, the evidence is sufficient to establish the fact that in 1244 the whole county of Huntingdon lay within the metes and bounds of the forest. It seems clear that after the pardoning in 1227 of the perambulators who acknowledged themselves wrong in disafforesting certain parts of the county in their perambulations of 1225, the official bounds of the forest were set along the county boundary and remained so until 1244 at least. It is very possible that the metes and bounds as given in 1244 were not the results of investigation made especially at the time of this inquisition. We have found parallel cases where one document is merely a copy of an older finding confirmed. The record in question, in that case, may be a copy of a perambulation determining the bounds of the forest after the transgressing knights were pardoned and the limits fixed at the county line in 1227.

As has been seen above, no further royal orders for perambulations have been found in the volumes of letters patent or close during the reign of Henry III, nor indeed, during the succeeding reign until the close of the century. Nevertheless, there are documents of other kinds regarding the metes and bounds of the forest, dated fully eleven years before the next general perambulation. On the rolls of the pleas of the forest heard at Huntingdon in 1286, was inscribed a perambulation of the forest.⁴⁸ This perambulation is recorded also in the *Ramsey Chartulary*.⁴⁹ It follows almost word for word the 1244 inquisition and is, therefore, probably a copy of it. The place names follow one another in identical order, differing only in spelling. On the face of it, then, in the absence of any evidence to the contrary, in 1286 the whole county of Huntingdon was

⁴⁸ *For. Proc., Exch., T. of R.*, roll 43.

⁴⁹ *Cart. Ram.*, i, 211.

subject to forest law; at least, what we assume to be synonymous, it was within the metes and bounds of the forest, which coincided with the county line. Further, since the general history of disafforestation is silent during those forty-two years, it seems that the whole county had been afforested since 1244. But it must again be stressed that no assertion can be made, that what was true in 1218 and 1219, and in 1244 and 1286, was true for the whole county during the intervening years. It is entirely possible that dwellers in Huntingdonshire had considerable freedom from the law when the Crown was busy with other matters than the forest. There is some evidence of this in the fact that the eyre roll for 38 Henry III⁵⁰ shows less care and strictness in the enforcement of the law than that of 14 Edward I.⁵¹ Apparently, either the severity of the forest law, or the strictness or extent of its enforcement, fluctuated from time to time.

The next document pertinent to the history of the afforestation of Huntingdonshire, is a copy in the Ramsey *Chartulary* of a perambulation ridden in pursuance of letters patent dated 23 September, 1299.⁵² The perambulation was ridden in 1300 and confirmed in 1301. Up to this point, the evidence, although not always conclusive, and sometimes confusing, has brought up no serious difficulties. The 1300 perambulation introduces, however, several problems, on the solution of which the findings of all earlier perambulations depend. We are by it brought face to face with the question of what the term *afforestare* implies as to the weight of the burdens borne by those living within the metes and bounds of a forest.

After the usual formality of opening lines, with the names of those under oath, the document begins: "These perambulators say under oath that King Henry, the grandfather of the Lord King Edward who now is, afforested all the woods and groves of the county of Huntingdon, after the first year of his coronation, except his hays of Weybridge, Sapley, and Herthey, which were his demesne woods before, by these underwritten metes afforested."⁵³ It will be remembered that the documents of 1225, 1244, and 1286 stated simply that all the county of Huntingdon had been afforested. There is considerable discrepancy between such a statement and the statement of this 1300 perambulation that the woods and groves were afforested. This latter distinction is again made evident by a list of some seventy woods and groves appended to the perambulation, "which

⁵⁰ *For. Proc., Exchang., T. of R.*, roll 41.

⁵¹ *For. Proc., Exch., T. of R.*, rolls 44, 45, 46. This fact is noted also in Bazeley, *The Extent of the Thirteenth Century Royal Forest*, 155, note 4.

⁵² *Pat. Roll.* 118, m. 9, cited by Turner, *civ.*

⁵³ *Cart. Rams.*, ii, 299.

Henry II afforested and which should now be disafforested.”⁵⁴ The perambulation ends with the usual words, however: “and they say that Henry aforesaid afforested the whole county of Huntingdon except the three aforesaid hays,”⁵⁵ etc. Further, the 1225 perambulation added Brampton and Alconbury to the Weybridge, Sapley, and Herthey of the 1300 perambulation; nor did it call the five demesne woods “hays” as does the later document. When asked whether the King had other woods and demesnes (“*alios boscos et dominica*”) in the county, the perambulators of 1300 said no.⁵⁶ It will be remembered that King John had given the woods of Alconbury and Brampton to Earl David, so that they were no longer demesne woods. The metes and bounds of the three hays are similarly but not identically defined in the two documents.

Apparently the only unchanging elements in the history of the Forest of Huntingdon and the struggle for disafforestation, are these three hays, enclosures or demesne woods, or whatever they may be, Weybridge, Sapley, and Herthey. They had been forest prior to the coronation of Henry II, because they were his demesne woods. It is not stated that Alconbury and Brampton, also demesne woods until the reign of John, were then afforested, because they are included within the metes of Weybridge and Herthey. The implication is that these hays remained forest during the whole of the thirteenth century. There is no evidence to the contrary, nor does anything in the general history of thirteenth-century disafforestation suggest that any attempt was ever made to put out of the forest land that was afforested before the reign of Henry II. It is necessary at last to examine the extent and character of these hays before continuing the discussion of the difficulties concerning the woods and groves of the 1300 document.

The metes and bounds of the three hays are very difficult to follow on a modern map. However, by combining the information of the 1300 document with that of the one dated 1225, certain results of value can be obtained. It seems probable from the two documents that the boundaries of the districts underwent no change throughout the century, and it will be permissible, therefore, to supplement one with the other. There is, further, some scattered information from other sources which may be used to piece out that of the perambulations.

Now as to the boundaries of Weybridge, the name of which has survived in a farm on the London-York Road. Sketchy as is the identification of place names, the documents before us suggest that Weybridge

⁵⁴ *Cart. Rams.*, ii, 303.

⁵⁵ *Cart. Rams.*, ii, 302.

⁵⁶ *Cart. Rams.*, ii, 302.

Hay extended as far north as Alconbury, excluding the meadow which lay along the stream of Alconbury. Two bits of other evidence confirm this. An entry in the 1255 Eyre Roll states that the township of Alconbury, among others, says that it ought to have common of herbage in Weybridge, for their arable lands and their meadows extend to the Lord King's demesne wood and the deer eat them.⁵⁷ A license on the Patent Rolls dated 3 November, 1259, gives the Prior of Merton permission to assart and cultivate two and a half acres of wood in Alconbury in the forest of Weybridge.⁵⁸ From like information concerning rights of herbage, we learn that the hay extended south to Ellington, excluding the grove,⁵⁹ and Brampton, and east to Little Stukeley.⁶⁰ Investigation of the district leads to the conclusion that the boundary of Weybridge followed in the south, the road from Ellington to Huntingdon, still the main road from Kettering to Huntingdon, and then, turning north at the cross-roads, ran along the great London-York highway, which runs roughly parallel to the Alconbury Brook.

It is still more difficult to determine the exact bounds of Herthey and Sapley. The name of the former still persists, with slightly different spelling, in a farm, Harty, just south of Weybridge, across the Huntingdon-Kettering Road. On the older Ordnance Map it is called High Harty and Low Harty. The name *Herthey* rarely appears even in thirteenth century documents, and there is some evidence that frequently the name of the larger district, Weybridge, included that called Herthey.⁶¹ As to Sapley, we can not follow the bounds as given in the record, but the district called Sapley is easily found on the Ordnance Map to be bounded by Stukely, Ripton, Hartford, and Huntingdon. The 1255 Eyre Roll shows that the arable fields and meadow of Hartford and King's Ripton abutted on the covert of Sapley, and that those townships therefore claimed herbage within the covert.⁶² We find in the pleas of 14 Edward I that the field of Ripton was within the hay of Sapley.⁶³

There are still further points in the 1300 perambulation that need clearing up before we discuss whether the term *afforestation* implied restrictions on woods only, or on all lands equally within metes and bounds, and

⁵⁷ *Select Pleas of the Forest*, 25.

⁵⁸ *Cal. Pat. Rolls, 1258-1266*, 58, and *For. Proc., Exch., T. of R.*, roll 41.

⁵⁹ The grove is expressly excluded by the perambulation, *Rot. Litt. Claus.*, ii, 209.

⁶⁰ *Select Pleas of the Forest*, 25.

⁶¹ *Cal. Pat. Rolls, 1301-1307*, 56. Brampton Wood, within Herthey, here mentioned as within Weybridge.

⁶² *Select Pleas of the Forest*, 26.

⁶³ *For. Proc., Exch., T. of R.*, roll 45, m. 7d.

whether the application of the law varied between hays such as Weybridge, Herthey, and Sapley, and the rest of the forest shire. The perambulators of 1299 summed up their findings with words already quoted: "And they say that Henry" (the second) "afforested the whole county of Huntingdonshire, except the three hays aforesaid," and continuing, "except the *banleuca* of Ramsey, and . . . Kingsdelph, which was afforested by Robert Passelewe, Justice of the Forest in the time of King Henry, father of the Lord King Edward who now is."⁶⁴ Kingsdelph was a marsh on the northeastern boundary of the country. Evidently there was doubt in the minds of King and Huntingdonshire men equally just what the status of Kingsdelph was. Although much of what the 1300 perambulators said is to be weighed carefully, since, first, they were determined to get as much concession from the King as possible, and second, they relied for their evidence chiefly on their memories and on the tales of the countryside, biased in favor of restriction, yet nevertheless there seems little need to question the assertion concerning Kingsdelph, namely that it was afforested by Robert Passelewe.⁶⁵

The mention in the 1300 perambulation of the *banleuca* of Ramsey brings up a new phase in the discussion of afforested land about which it is hard to reach conclusive results, the liberties within the metes and bounds. It is clear that subjects of the King frequently held extensive tracts within forest limits free in varying degrees from the forest law restrictions. The roll for the Forest Eyre of 14 Edward I devotes considerable space to charters of such liberties.⁶⁶ Concerning the *banleuca* of Ramsey, we have the following information. As early as the reign of John there is a confirmation of charters to the Abbot allowing a league of land around his abbey free and quit of view of foresters and all secular power.⁶⁷ In the Ramsey Chartulary, and on the Eyre Roll, we find attached to the 1286 perambulation the metes and bounds of this liberty of the Abbot.⁶⁸ Although the document is specific, the limits can not be followed accurately on a map. We find only Raveley, Ugg Mere, Asbeach, Middlemore, and Kingsdelph, on the Survey Map of today. These places bound but one side of the liberty, and that not carefully. Another important liberty in the Forest of Huntingdon was the free chace of the Bishop of Ely at

⁶⁴ *Cart. Rams.*, ii, 302.

⁶⁵ An entry in the forest pleas of 14 Edward I states that Kingsdelph in Huntingdonshire was afforested in 30 Henry III by Robert Passelewe. *For. Proc., Exch., T. of R.*, roll 43, paragraph 2.

⁶⁶ *For. Proc., Exch., T. of R.*, roll 43.

⁶⁷ *Rot. Chart.*, i, pt. i, 76b.

⁶⁸ *Cart. Rams.*, i, 214, and *For. Proc., Exch., T. of R.*, roll 44, m. 5.

Somersham, with its surrounding land relieved of forest restrictions.⁶⁹ This liberty was even more extensive than that of Ramsey, but its bounds, as in the former case, are difficult to trace.⁷⁰ Indeed, there was discussion concerning them between the King and the Bishop.⁷¹ According to an entry on the Hundred Rolls, the jurors "say that the Bishop of Ely exceeds his metes and makes attachments in the forest of the Lord King, and they know not by what warrant."⁷² We learn from the eyre roll of 1286 that "when the foresters and verederers went to Benewyk" (partly in the King's forest and partly in the Bishop's liberty,) "to make inquisition, the Bishop's bailiff met them, leading three priests . . . to excommunicate the ministers of the Lord King, so that no inquisition could be made there that day."⁷³

A few scattered references to other liberties will show how riddled was the fabric of afforested Huntingdonshire with parts freed by special charters from at least portions of the forest law. In 1214, the King gave to Geoffrey, the son of Peter, Earl of Essex, and his heirs, the forest of Huntingdon between the hay of Kimbolton and the Park of Melbourn with vert and venison.⁷⁴ In this case, the specified district was not relieved from the restrictions of forest law; the profits from it were merely handed over to another than the King. We find also many notices of parks, probably enclosed, which were allowed only by special dispensation; for instance, at Fotheringay, at Suho, at Alconbury.⁷⁵ The grant to Stephen de Sedgrave for the wood of Alconbury was particularly far-reaching. "We grant to Stephen de Sedgrave that the wood of Alconbury be free of regard and waste, and that he may assart or empark, and that the men of the manor need not expeditate their dogs."⁷⁶ Permission was given also by charter for the enclosing and emparking of the wood of Buckworth.⁷⁷ Still another kind of liberty frequently conceded to subjects by the King is evidenced in a license for life for Master Roger of Raveningham to hunt with his dogs the hare, the fox, and the cat, through the Forest of Huntingdon except in warrens.⁷⁸ This exception of warrens

⁶⁹ *R. H.*, ii, 606.

⁷⁰ Bounds given on roll 43 of the 14 Edward I Eyre.

⁷¹ *R. H.*, i, 197; *Cal. Pat. Rolls, 1281-1292*, 94.

⁷² *R. H.*, i, 197.

⁷³ *For. Proc., Exch., T. of R.*, roll 43.

⁷⁴ *Rot. Cart.*, i, pt. 1, 194.

⁷⁵ *Close Rolls, 1227-1231*, 284; *ibid.*, 52; *Close Rolls, 1247-1251*, 341.

⁷⁶ *Close Rolls, 1231-1234*, 385.

⁷⁷ *Cal. Rot. Cart.*, 40.

⁷⁸ *Cal. Pat. Rolls, 1247-1258*, 202.

begins a new tale of liberties of another kind into which it is here impossible to go.⁷⁹ The liberties thus granted, it will be noticed, are of two kinds: either a part of the forest is turned over to a subject who gets the perquisites of the forest, and privilege to hunt and cut timber at will, or the land itself is at least partially freed from forest law. Consonant with other medieval practices, therefore, the law of the forest was constantly set aside by special grants, paid for, no doubt, by the recipient of the favor. The extent to which the practice reached is not determinable, nor is it particularly necessary that it should be after it is once realized that no place within metes and bounds can be considered fully afforested merely because it is within these metes and bounds. In the further study of the law prevailing in Huntingdonshire, this must always be kept in mind. Particular caution in labeling a place "afforested" is necessary because sometimes the documents themselves are contradictory. On the same roll we find the following inconsistent enrollments: on one membrane is a charter permitting the Abbot of Sautrey to enclose the wood of Sautrey, which was thereafter to be free from waste, regard, and so on; on the next, is the record of the offense against forest law of carrying bows and arrows within the forest, "videlicet, in boscum de Sautre."⁸⁰

We have found that, although on parchment the Forest of Huntingdon was a "definite tract of land,"⁸¹ indeed as definite as the county itself, "the metes of which are fixed and known by matter of record,"⁸² there was hesitation in establishing its limits, and, as we may be sure from the records, uncertainty concerning numerous parcels of land within the boundaries after they were fixed. Knowing these facts, we must, it seems, break away from our old idea of afforested land. We can no longer define a forest as a whole, nor make assertions about the exclusion of the common law, without examining more closely the history of its afforestation, and the nature of each district. This has been partially realized, it is true, but its implications have not been made clear. We find authorities saying, "It is clear that the forest system was not so hard and fast as it is often pictured,"⁸³ and "Other persons" (that is, other than the King) "might possess lands within the bounds of a forest, but were not allowed the right of hunting or of cutting trees in them at their own will,"⁸⁴ and "A forest included within its metes not only the King's lands, which were known

⁷⁹ See Turner's introduction to *The Select Pleas of the Forest*.

⁸⁰ *For. Proc., Exch., T. of R.*, roll 44, mm. 1 and 2.

⁸¹ Turner, *Select Pleas of the Forest*, ix.

⁸² Wriottesley, *Staffordshire Forest Pleas, Hist. Coll. Staff*; v, pt. i, 126.

⁸³ Bazeley, *The Extent of the Thirteenth Century Royal Forest*, 146.

⁸⁴ Turner, *Select Pleas of the Forest*, ix, x.

as the King's demesne woods, but also many manors belonging to private lords."⁸⁵ The first of these citations is of course only a remark in passing, but the last two, as parts of definitions, present serious difficulties to the inquiring mind. We are told that persons possessed manors within forest limits. It has been suggested, and later will be made entirely clear, that this was the case in Huntingdonshire. But we are never brought face to face with the consequence of this. Did people live on these manors as on other manors? Were they uniformly and constantly aware of the restrictions of the forest law? Had they not the protection of the common law in their daily pursuits? The significance of these questions has passed unremarked.

But it may be objected with reason that we have so far neglected the difficulty discovered in the 1300 perambulation concerning the woods and groves. It was, it will be remembered, this. The perambulation began, "These perambulators say on oath that Henry II afforested all the woods and groves of the county of Huntingdon, except the hays of Weybridge, Sapley, and Herthey, which were before his demesne woods."⁸⁶ After giving the metes and bounds of these three hays, the document continues with a list of the "*bosci et gravettæ*" which Henry had afforested. There are some seventy or more named, scattered over the whole county outside of the two great liberties of Ramsey and Ely, and the three hays.⁸⁷ Now all the other perambulations analyzed above differ from this one by stating that Henry II had afforested the whole county of Huntingdon, or by giving boundaries that coincide with the county boundaries. Further, the 1300 perambulation winds up with the more familiar clause, that Henry had afforested the whole county except for the three hays which were already forest. This evidence alone may be interpreted to mean that when metes and bounds were drawn around the county, and jurors said that the county was thus afforested, the forest law was in reality to be enforced only over the woods within the bounds. Such an interpretation of the perambulations would, indeed, simplify matters. We could then accept the most extreme statements concerning forests; they might, if only the woods within the metes were meant, be "waste lands," uncultivated, uninhabited, administered only by forest officials under the forest law, excluding common law, and kept separate and apart for the protection of the vert and venison. Aside from the fact that this is a rather obvious sort of interpretation, certain chapters in the Forest Charter give evidence in support of it. The clauses in these chapters which are here

⁸⁵ Wriottesley, *Staffordshire Forest Pleas, Hist. Coll. Staff.*, v, pt. i, 126.

⁸⁶ See above, p. 13.

⁸⁷ *Cart. Rams.*, ii, 300. The wood of Somersham, within the liberty, is on the list.

applicable, state, freely translated, that "all the forests which Henry our grandfather afforested shall be viewed; and if he afforested any woods to the injury of him whose it is, it shall be disafforested;"⁸⁸ and "all woods which were afforested in the reigns of Richard or John shall be immediately disafforested unless it be our demesne wood."⁸⁹ Turner comments, "The language of the Charter is notable. A forest was a district which might include both woods and open country; yet it was only woods which were to be disafforested. Perhaps in some cases the King had afforested woods in the neighbourhood of their forests, but had allowed the open country which surrounded them to remain exempt, or partially exempt, from the forest laws."⁹⁰ In a footnote, he adds, "It should be noticed that the justices who were appointed to inquire into the boundaries of the forests in December 1219 were directed to inquire what woods had been put within the regard by King John, and what woods had been put in defense by him. (See *Rot. Litt. Claus.*, i, 434.) This direction points to the King having partially afforested certain districts. By putting woods within the regard he prohibited wastes and purprestures. By putting them in defense, he prohibited hunting in them. The expression 'put in defense' seems, however, sometimes to have denoted merely the exclusion of sheep and cattle from pasture. See pp. 47-8 below." Continuing his main discussion, Turner proceeds, "It is probable, however, that the word 'boscus' was not intended to be construed literally, but was loosely used of districts which were for the most part assumed to be wooded."⁹¹ It is interesting, but not conclusive, of course, that Manwood interprets the Charter similarly. "There the Statute," he writes, explaining the chapter of the Charter under discussion, "doth speak but only of the afforesting of the woods of other men, nor of the disafforesting of anything but only of the woods of other men, and yet there is no doubt, but the meaning of the Statute in the same place is, that all the lands and other grounds that were before that time newly afforested by the said King Henry II should be disafforested as well as those that were woods."⁹²

Turner's guess was hazarded after close study of many unprinted records, but more research is necessary before a general statement can be made on this point. However, we can do more than surmise that in Huntingdonshire the state of affairs was as he has described it. The evidence which brings us to conclude that the troublesome "*bosci et gravettæ*" of

⁸⁸ Forest Charter, chapter 1; Turner, *Select Pleas of the Forest*, cxxxv.

⁸⁹ Forest Charter, chapter 3.

⁹⁰ *Select Pleas of the Forest*, xciii.

⁹¹ *Select Pleas of the Forest*, xciv.

⁹² Manwood, *Treatise of the Forrest Lawes*, 1st ed., cap. 2, 13.

the 1300 perambulation are not "intended to be construed literally" is not voluminous, it is true, but, taken on the whole, is significant. In all the Huntingdonshire material, only two other entries suggest any doubt in the matter, and both of these, under scrutiny, resolve themselves into vague confusions of phrase. One of the entries has already been cited. It was said by the twenty-four knights who gave the history of the afforestation of Huntingdonshire, that King John, "having withdrawn all the woods of Huntingdonshire, placed them in defense, except his demesne hays which were anciently in defense, and so they remained."⁹³ Considering the weight of evidence we have that these hays had been properly afforested, not in defense, since before the coronation of Henry II, we may conclude that here the terminology is confused, and probably denotes a corresponding vagueness of meaning in the mind of the scribe, or whoever dictated the report to him. The other entry is merely a note of the jurors of the 1300 perambulation "that the beasts of the Lord King have peace in the meadow of Wykingeslonde as far as Houtoneslinche."⁹⁴ The meaning of this is not self-evident, but it will be noticed that, as a description of the forest when reduced to the three hays, it has no bearing on our knowledge of the afforestation of the whole county.

To settle this point, we must now turn to a new class of evidence. It consists of the entries concerning offenses against the vert and venison on the rolls of the forest eyres held at Huntingdon in 1255 and 1286.⁹⁵ At these dates, according to the perambulations, "the whole county was afforested." The proceedings of the courts show us that "the whole county" was construed by the foresters and verderers, by the justices, and apparently by the inhabitants of Huntingdonshire, to mean hays, woods, meadows, fields, and villages, literally, the whole county. As to the test whether a particular place was subject to forest law, the following is permissible, allowing for possibility of error owing to contradictions in the records: if a beast is found wounded or dead, or if a malefactor of the venison is caught in a field, wood, or pasture, and if the usual procedure according to the forest law ensues, then surely that field, wood, or pasture may be termed afforested. Also the township or vill which is either called to make inquisition concerning the dead beast or discovered malefactor, or does not "come fully" at the eyre, may be reasonably considered subject to the forest law. "The careful restriction of this duty (of making inquisition) to townships within the bounds is illustrated by the imposi-

⁹³ *For. Proc., Exch., T. of R.*, roll 38.

⁹⁴ *Cart. Rams.*, ii, 301. Also, with wording slightly changed, *For. Proc., T. of R.*, roll 38.

⁹⁵ *For. Proc., Exch., T. of R.*, rolls 43-46. The 1255 Roll is printed by Turner.

tion of a fine in this connection on 'half' several border townships in a Northamptonshire eyre roll."⁹⁶

The evidence of the 1255 and 1286 eyre rolls amply proves the point in question. It will be necessary to extract one example only of each type of place shown to be subject to forest law. First of all, of course, offenses against the venison in the hay, or as it is here called, the forest of Weybridge, are liable to punishment. "The men of Hugh, the parson of Irchester, came on the Vigil of the Epiphany in the thirtieth year with four greyhounds into the forest of Weybridge;" . . . they took a fawn, and the foresters, coming up, took them.⁹⁷ Another offense in the same district brings in the townships. "A certain fawn was found in the wood of Brampton wounded with a certain arrow. An inquisition was made and the townships knew nothing. And because the townships of Brampton, Ellington, Graffham, and Dillington did not come fully, therefore they are in mercy."⁹⁸ The same consequences attended upon the killing of a beast without the woods. "The townships of Yaxley, Folkesworth, Stilton, and Morborne, did not come before the justices to make inquisition" concerning a buck killed "in the field of Yaxley with a certain pick-axe."⁹⁹ By these notes, we find the forest law working in forest proper, so-called, in wood, in open field, and by means of township organization. Examination of the map will show how widely distributed are the place names thus mentioned in the eyre rolls. It is thus evident that the insertion in the perambulation of the list of woods to be disafforested does not mean that the term "*afforestation*" applies only to the woods within the metes and bounds as ridden by the perambulating knights.

However, if we take only the evidence of the Eyre of 1255, we find that the distribution of place names clearly denoting lands afforested is very obviously not equal throughout the county. Most of the offenses are recorded for districts grouped around the central part, where the three hays are located. Further, a large proportion of the offenses enrolled at the 1255 Eyre were committed either specifically in Weybridge or Sapley, the districts being called "forest of Weybridge," or "forest of Sapley," or merely, "within the forest." An example of the former case has been cited. Very frequently the entries run as follows: "It is presented by the foresters and verderers that a chaplain and seven clerks were found with bows and arrows in the King's road within the forest."¹⁰⁰ If this

⁹⁶ Bazeley, *Extent of the Thirteenth Century English Royal Forest*, 165.

⁹⁷ *Select Pleas of the Forest*, 19.

⁹⁸ *Select Pleas of the Forest*, 21.

⁹⁹ *Select Pleas of the Forest*, 12, 11.

¹⁰⁰ *Select Pleas of the Forest*, 14.

designation refers to any part within the forest as bounded by the limits of the county, it is hard to explain. If, however, it refers to a particular district particularly liable to the designation "forest", we have a clue, perhaps, to the real characteristics of this forest county. Another entry tells us more. It speaks of a man who was slain "within the metes of the forest, to wit, within the King's demesne wood."¹⁰¹ Weybridge, Herthey and Sapley, it will be remembered, had been the only demesne woods since the reign of John. If we then look further afield, we find that in the many volumes of letters patent and close, extending from the first to the concluding years of the thirteenth century, scarcely a dozen references are made to the "forest of Huntingdon," as such. On page after page, on the other hand, we find references to the forest of Weybridge, or the forest of Sapley, throughout the years when the perambulations have told us that all Huntingdonshire was afforested. These facts suggest further reason for hesitating to define a forest as a definite tract of land covered by a special body of laws. Evidently we must distinguish demesne woods, probably to be identified with the "covert" (*coopertus*) mentioned occasionally,¹⁰² from the outlying districts. The information to be derived from the letters patent and close is not very conclusive on this point, it must be noted.

So very divergent are the terms used in respect to Weybridge and Sapley, that we see at once that the King at Westminster in making his grants of venison and timber was not keeping a very strict watch over his nomenclature. He very obviously often distinguished between Sapley and Weybridge, or the parts of the forest of Huntingdon "*extra dominicas hayas de Wauberg' et Sappel*,"¹⁰³ but in general there is great variety in his description of those parts of the forest he was making his gifts from. For instance, we find grants to nobles and religious houses to take buck or doe, or to cut oaks, in "the King's hay of Weybridgehay, which is within the bounds of the forest of Weybridge,"¹⁰⁴ "the King's hay of Sapley,"¹⁰⁵ "Sapley, outside of Weybridge,"¹⁰⁶ "in the forest of Weybridge, outside of the King's hays,"¹⁰⁷ "in the woods of Sapley and Weybridge in the Forest of Weybridge."¹⁰⁸ An entry among the letters patent of a later date than our period, shows well how ill defined the nomenclature was. In

¹⁰¹ *Select Pleas of the Forest*, 19.

¹⁰² *Close Rolls*, 1237-1242, 77.

¹⁰³ *Close Rolls*, 1237-1242, 66.

¹⁰⁴ *Cal. Close Rolls*, 1288-1296, 302.

¹⁰⁵ *Cal. Close Rolls*, 1279-1288, 393.

¹⁰⁶ *Close Rolls*, 1242-1247, 203.

¹⁰⁷ *Close Rolls*, 1242-1247, 205.

¹⁰⁸ *Close Rolls*, 1232-1237, 136.

the letter, it is stated that John de Crokesle, appointed by the King for the purpose, had, on 20 February, 29 Edward I, arrented in the Forest of Weybridge, a bit of waste land within the hay of Sapley.¹⁰⁹ The only way out of the confusion is to suppose that occasionally the three hays of Weybridge, Herthey and Sapley, taken together, were called the Forest of Weybridge. When thus examined, one after another, these various names suggest that, although the whole county was called forest, the central portion, Weybridge, had especial characteristics.

Turning again to the eyre rolls, however, we find that the grouping of offenses around the central part of the county does not prove that one of these characteristics was a different law, more strictly forest law than that imposed on outlying districts. Indeed, the map itself, particularly when the offenses of the 1286 eyre are marked upon it, gives some evidence to the contrary. Certain townships well away from the hays, Yaxley, Morborne, Caldecot, Stilton, and Folkesworth in the north, Warboys in the east, and Paxton and Toseland in the south, are enrolled at the earlier eyre as serving on inquisitions.¹¹⁰ The later record notes many other townships near the county boundaries which were responsible under forest law.¹¹¹ We see, therefore, that, although it is probable that the covert of the forest, or the King's demesne woods, are to be considered separately from the rest of the forest, we have not yet grounds for deciding wherein the difference lies. A more detailed study of the map in the light of other contemporary evidence gives us further information.

A very clear idea of the different parts of Huntingdonshire during the thirteenth century may be gained from the Hundred Rolls, *post mortem* Inquisitions, and other non-forest material. This visualizing of the actual lay of the land and the course of human life upon it, not only makes plain why offenses against the vert and venison were committed chiefly in the centre of the county, but also gives us a basis by which we may decide what afforestation actually meant to the inhabitants of a royal forest.

The legal geography of Huntingdonshire, if we may call it that, was then, somewhat as follows. The northeastern part of the county was largely marsh or fen; we have heard of Kingsdelph, and may read further of Farcet and Glatton marshes in the Hundred Rolls.¹¹² South and east, following the county boundaries, we meet the *banleuca* of Ramsey, including some of the Ramsey manors, excluded from the forest jurisdiction. Next, to the south, we come to Somersham, and the liberty of the Bishop

¹⁰⁹ *Cal. Pat. Rolls, 1313-1317, 92.*

¹¹⁰ *Select Pleas of the Forest*, pp. 11, *et seq.*, *passim*.

¹¹¹ *For. Proc., Exch., T. of R.*, rolls 43-46, *passim*.

¹¹² *R. H.*, ii, 652.

of Ely, another large bit taken from the jurisdiction of the foresters. We see already that the eastern part of the county, stretching from the north to the south, would in the nature of things be free from the activities of forest officials. In the extreme south, from whence two townships in 1255, and many more in 1286, had to appear at the forest eyre court, and along the western boundary of the county, are many of the woods which were listed on the 1300 perambulation as afforested by Henry II. These parts of the county were, by evidence of the Hundred Rolls, organized into manors in the usual medieval way. But the central portion of Huntingdonshire, where the forest laws were apparently felt more than anywhere else, were the three districts which we have been calling hays, or, in the Latin, *haya*.

These "hays" present a problem. They are sometimes called demesne woods, and sometimes demesne hays, and are given metes and bounds which remained constant throughout the century. Sometimes we are puzzled by a double use of the term in the same phrase, as for instance, in the citation from the Close Rolls given above, "the King's hay of Weybridgehay, which is within the bounds of the forest of Weybridge." As may be seen, the word is used quite variably in the thirteenth century, and is not explained in modern books. The meaning of the word is given in Martin's *Record Interpreter* as *hedge, net, enclosure*. In his translations of the rolls, Turner gives the meaning as *enclosure*. The word *hay* as an English word was used by Manwood, and later in the time of Charles I. The author of the discussion in the *Transactions of the Royal Historical Society* of the extent of the forest, notes various ways in which the word was used. She gives as one example, the Hay of Hereford, which "was a forest district some six miles in length including part of the county town."¹¹³ Obviously, the word here did not imply an enclosure, although the author concludes that it usually did so. It is, however, only the matter dealing with the hays in Huntingdonshire that we need examine for the moment. The hays of Weybridge, Sapley and Herthey were, according to the perambulations, demesne woods. We may take this to mean some amount of open land with the woods, of course. Possibly the wood itself, or, if the woodland was scattered, the largest wooded area, was "the King's hay of Weybridgehay within the forest of Weybridge." We may here have a smaller area, enclosed, surrounded by the district often called the "forest" of Weybridge. This is merely speculation, a possible explanation of ambiguity in the records. Perhaps, in spite of its literal meaning, the word *haya* does not in the Huntingdonshire documents denote a district entirely enclosed. The dwellers in Brampton, Alconbury, Elling-

¹¹³ Bazeley, *Extent of the Forest*, 143.

ton, Hartford, and King's Ripton, it will be remembered, were annoyed by the depredations of the deer from Weybridge and Sapley because their arable and meadow abutted on the hays. If the latter had been enclosed, presumably the deer would not have strayed, or at least some remark might have been made that the hedge was broken down. There is no evidence in the material examined of fencing or hedging services demanded of the inhabitants. Further, the three districts described as hays were so extensive (Weybridge was considerably larger than the adjoining townships) that the material problem of maintaining an enclosure would have been very great.

Whether enclosed or not, on the negative evidence of the Hundred Rolls and other documents, Weybridge, Herthey and Sapley were not manors. They were, however, under a certain, probably very limited, amount of cultivation. Of this we have scattered evidence, in licenses for assarts. Among others, there is a license for the Prior of Merton to assart and cultivate two and a half acres of wood in Alconbury, in the forest of Weybridge,¹¹⁴ and a notice among the *post mortem* inquisitions of an assart in Herthey.¹¹⁵ So far as we can tell, this cultivation was exceptional.¹¹⁶ The hays were undoubtedly the covert of the forest, the forest proper, chiefly, we may judge, uncultivated land, well wooded. There is scarcely a trace of such wood today, although the wood of Brampton still flourishes. It was from these hays that the King granted bucks to nobles, oaks to the Augustinian Friars in Huntingdon,¹¹⁷ or license to the Prior of Huntingdon that he might have one man carry away every day bundles of underwood.¹¹⁸ It was to these districts that the foresters went to watch at dawn, and to guard the venison from the depredations of such as "the men of Hugh the parson of Irchester" who went thither to take a fawn a year old,¹¹⁹ or as a certain Gervase, cook of John of Crakehall, seen at night with unknown companions bent on evil-doing, with greyhounds, bows, and arrows.¹²⁰ It was in Weybridge and Sapley that Robin Hood would have split the willow wand had he ranged the Forest of Huntingdon in the thirteenth century.

When we visualize the map of afforested Huntingdonshire in this way, and see that these hays of Weybridge, Herthey and Sapley were the covert

¹¹⁴ *Cal. Pat. Roll, 1258-1266*, 58.

¹¹⁵ *Inq. Post Mort.*, iii, 350. Also, *Rot. Cart.*, i, pt. i, 144b.

¹¹⁶ On the roll for the 14 Ed. I eyre, other assarts are noted.

¹¹⁷ *Cal. Close Rolls, 1279-1288*, 393.

¹¹⁸ *Cal. Charter Rolls*, i, 350.

¹¹⁹ *Select Pleas of the Forest*, 19.

¹²⁰ *Select Pleas of the Forest*, 12.

of the forest, very limited in area, with a few huts, perhaps, for the foresters, and small bits of land cultivated by them or others, the entries on the Patent and Close Rolls are more easily understood. It was only natural that royal grants should specify the district from which the gifts were to be taken. The grouping of places where forest law was enforced most rigidly at the eyres of 1255 and 1286 becomes clear also. The hays were the natural homes of the deer, from which the beasts strayed upon occasion, but only rarely to the outskirts of the county. Being demesne woods, depredations to the vert would be punished more often within them than within other woods. Besides, the holders of other woodland very frequently had special license to cut their trees. These facts alone account for the more frequent appearance at the eyre courts of the townships in the neighborhood of the coverts. Remembering also that on the north and east was the fen country, and that in the east and southeast were located the liberties of Ramsey and Ely, we understand finally the distribution on the map of the places whose inhabitants were summoned to the eyres. According to law then, when King and perambulating knights declared the whole of Huntingdonshire afforested they meant, and were doubtless understood to mean, that the whole county lying within metes and bounds, woods, pasture, arable, and settlements, king's demesne, and tenants' land, exclusive of the liberties, was subject to forest law. This law would be presumably, more or less rigorously applied according to the interest and strength of the King, the personnel of the officials and their willingness to be bribed.

So far we have seen that the nucleus of the Forest of Huntingdon was formed by three nearly contiguous districts called hays, in which were protected the chief herds of deer and the most extensive and probably the finest timber of the county. We have seen that the burden of the forest law fell most heavily on those who lived nearest to these hays. We have had reason to believe, however, that not just those districts but the whole county, excluding the considerable liberties, was legally subject throughout the thirteenth century, except for the six years at the beginning of the reign of Henry III, to the forest law, although in the nature of things, the application of the law varied in its rigor.

It will clarify our future discussion to show briefly what the restrictions of this law were. No elaborate treatment is necessary since the introduction to the forest pleas volume of the Selden Society gives this with authority. From the roll of the forest eyre held at Huntingdon in 1255, we learn the following. Under forest law, dwellers within metes and bounds could not hunt or otherwise wound or kill the beasts of the forest without license. Strictly speaking, the beasts of the forest were the buck, the doe,

the red deer and the roe.¹²¹ Frequently general license was given for hunting the cat, the hare, and the fox, although by the letter of the law they were not under the protection of the law of the forest, but of the warren. Further, inhabitants of afforested Huntingdonshire could not carry bows and arrows, or at least, not unless the arrows were tied to the bow with a string. They could not keep big dogs unexpedited; they could not cut down big trees; they could not carry away underwood; they could not make assarts, that is, root up trees and cultivate the ground; they could not make purprestures, that is, build fences or dig ditches to hinder the movements of the deer, or build to the nuisance of the forest; they were responsible by townships to inquisitions concerning forest offenses called by foresters, and had to come by townships to the Forest Eyre. Most irritating of all, probably, always watching and ready to imprison or harry them, were forest officials who made their livings on bribes and perquisites.¹²² Such was the forest law, or rather, such were the restrictions the infringements of which were brought up for discussion and punishment at the forest eyre of 1255 held at Huntingdon.¹²³

However, we need not suppose that the county of Huntingdon, officially afforested, was either constantly hectored by the foresters, or free from the obligations of other systems of administration. On the one hand, eyres were few, and long years passed without them, and the foresters evidently confined their activities chiefly to Weybridge and Sapley. On the other hand, inhabitants of Huntingdonshire, and it is this point which the following pages try to make clear, though dwellers in a forest, were subject to the bonds of all the customs and laws which obtained elsewhere. It is here that commentaries on the forest system have been most misleading and mistaken.

Note D to page 171, list of afforested manors.

Among the many names of places especially designated as manors in the Hundred Rolls, the Chartulary of Ramsey, and among the Feet of Fines for Huntingdonshire, are the following, all of which we know by evidence of the forest eyre rolls to have been visited with the penalties of forest law. Beginning in the north, and working south, we find Elton, Alwalton, Haddon, Chesterton, Yaxley, Folksworth, Caldecott, Warboys, Wennington, Little Ravely, Abbot's Ripton, Great and Little Stukely, Buckworth, Alconbury, Ellington, Brampton, Lym age, Grafham, Godmanchester,

¹²¹ *Select Pleas of the Forest*, ix, f.

¹²² The pleas of the forest are full of complaints concerning the offences of foresters.

¹²³ The record of the eyre of 1286 does not add any further information.

Perry, Beechampstead, Dillington, Doddington, the two Offords, Darcy and Cluny, Paxton, and a few others.¹²⁴ The extents of those listed here as taken from the Hundred Rolls do not in any way differ from the extents of non-forest manors in other counties. There is no evidence in those examined that an afforested manor was organized differently from any other manor.

Note E to page 175, discussion of a difficult case.

There is, on the 1255 forest eyre roll, an entry concerning a slaying in Sapley. Superficially, this suggests that the forest law was accustomed to take cognizance of such cases, and that common law was not needed to bring evildoers to justice. However, the following bit shows that presentment of crime in a forest court was rare, even when the one suspected was a forester. "A certain stranger was found slain in Sapley. Richard Lenveyse, a walking forester, who was the first finder, does not come, nor was he attached, because the verderers say and witness that they made no attachment of the said man who died or was slain within the metes of the forest, to wit, within the King's demesne woods, nor were they wont at any time to make any such attachment of the finder, nor of the four townships, nor did they present Englishry by reason of the assize of the forest. And because the law of the land concerning the death of a man should not be abated on account of the assize of the forest, the procedure should be according to the pleas of the crown. No Englishry, therefore murder on the hundred of Hirstingstone. And because inquisition was insufficiently made, let inquiry be made by the verderers and four townships and the hundred of Hirstingstone, who say upon their oath that the said Richard Lenveyse and a certain William of Cornwall are guilty of that death. . . . Let Richard be exacted and outlawed."¹²⁵ This case can not be interpreted as the regular procedure for non-forest offenses within a forest. In the first place, one of the culprits was a forester; in the second, the verderers testify that they are not wont to make attachments in such cases. The procedure according to pleas of the crown works stiffly in the forest court. Nevertheless, this case is one of

¹²⁴ Elton, *R. H.*, ii, 656. Alw., *R. H.*, ii, 638. Haddon, *R. H.*, ii, 644. Chest., *R. H.*, ii, 654. Yax., *R. H.*, ii, 640. Folkes., *R. H.*, ii, 633. Cald., *R. H.*, ii, 636. Warb., *R. H.*, ii, 601. Wen., *Cart. Rams.*, *passim*. Rave., *R. H.*, ii, 602. A. Rip., *R. H.*, ii, 600. Stuke., *R. H.*, ii, 598, *Feet of Fines*, 45. Buck., *Feet of Fines*, 46. Alc., *R. H.*, ii, 610. Ell., *Cart. Rams.*, *passim*. Bramp., *R. H.*, ii, 607. Lym. *Close Roll*, 1237-1442, 24. Graf. *R. H.*, ii, 623. God., *R. H.*, ii, 591. Perry, *R. H.*, ii, 666. Beech., *R. H.*, ii, 666. Dill., *Feet of Fines*, 50. Dod., *Feet of Fines*, 39. Off. D., *R. H.*, ii, 668. Off. C., *R. H.*, ii, 683. Pax., *R. H.*, ii, 672.

¹²⁵ *Select Pleas of the Forest*, 19.

the several difficult points which prevent an unqualified answer to the question concerning common law in the forest. Such a case, isolated as it is, demands that we examine the possibility that common law was excluded, if not from afforested districts as a whole, at least from the covert of the forest, Sapley. Whatever may be the general rule, in Huntingdonshire, apparently, in the case of the slaying of a man "*infra metas foreste, scilicet, infra dominicum boscum domini regis*," there is doubt and hesitation in the minds of foresters and verderers as to proceedings, and a decision on the part of the forest justices that "the law of the land concerning the death of a man ought not to be abated on account of the assize of the forest." The procedure therefore, is to be according to the pleas of the crown, but in the forest court. As a demesne wood, this particular "hay" or "forest" of Sapley was not, so far as this evidence shows us, under cognizance of the common law courts. Not being either manor or township, Sapley of course had none of the machinery for presenting pleas of the crown, hence the presence of the verderers. However, it is very possible that the same case came up in some non-forest court also.

Note F to page 177, bounds of Staffordshire forests.

Positive proof that the history of Cannock Forest began like that of afforested Huntingdonshire is lacking, the early 1218-1219 and 1225 perambulations being, apparently, no longer extant. We find, however, among the letters patent and close, suggestions that such perambulations were ordered,¹²⁶ and that, when ridden, they were thought little of by King and Council.¹²⁷ On 25 June, 1225, some four months after the second issue of the Forest Charter, the King addressed letters close to the Sheriff of Staffordshire announcing that a perambulation was to be made by Hugh de Neville "following the tenor of our charter of liberties of the forest."¹²⁸ On 6 August, the twelve knights who had made the perambulation were ordered through the Sheriff to hand over their returns to Robert Corbet, the Justice assigned.¹²⁹ In 1228, in the familiar phrase, the King announced that the perambulators had come before him, acknowledging their error in putting out of the forest areas that had slipped from the forest during Stephen's reign, and that he wished the forest to be as it was before the war between him and his barons.¹³⁰ We see here the main out-

¹²⁶ *Rot. Litt. Claus.*, i, 434b, (13 Dec., 4 Henry III) and *Pat. Roll* 32a, mm. 6, 5d, cited by Turner, *Select Pleas of the Forest*, xcvi, note 3. (1224).

¹²⁷ *Rot. Litt. Claus.*, ii, 3. (30 October, 9 Henry III).

¹²⁸ *Rot. Litt. Claus.*, ii, 45.

¹²⁹ *Rot. Litt. Claus.*, ii, 80.

¹³⁰ *Close Rolls, 1237-1231*, 101. (24 April, 1228).

lines of a story that can probably be filled in in accordance with our knowledge of the struggle in Huntingdonshire and certain further information gleanable from later Staffordshire material.

After an interval of over fifty years, for which period there is apparently no material extant of any account, in 1286 a perambulation was enrolled among the pleas of the forest for Staffordshire, which gives the metes and bounds of Cannock. It shows the forest to be an extensive territory, some eleven miles from north to south, and twelve miles from east to west, an area not much less than the entire county of Huntingdon.¹³¹ This perambulation, and the history of the Forest of Huntingdon very strongly suggest that the bounds established in 1228 as the bounds as they were in the reign of John, were enforced throughout the rest of Henry III's reign, and that this perambulation gives the information as to what these bounds were. Pleas of the forest for 1262, 1271, and 1286 show that this whole area exclusive of liberties was under forest law during those years.¹³² The next extant perambulation is dated 1300.¹³³ Like the contemporaneous perambulation of Huntingdon, it gives the bounds, not of a large inclusive territory, but of separate districts within the larger areas, called hays. In Cannock there were at least seven hays. Owing to confusion between demesne woods and hays, so-called, there is difficulty in being precise as to the number. It is probable that in the metes and bounds of these hays we have the substance, if not the very words, of the perambulations of 1218 and 1225 which were acknowledged as a transgression in 1228. Staffordshire men as well as dwellers in Huntingdonshire had long memories and determined characters.

In the material at hand, the two perambulations and the pleas of the forest for 1267, 1271, and 1286, there is ample evidence concerning what lands within the metes were subject to forest law. This evidence is of a similar nature to that found in Huntingdonshire records. Townships hold inquisition, are amerced for not coming fully to the eyre, fields are named wherein beasts of the forest were taken, and villis and manors are stated to have been afforested since the reign of Henry II. Wherever possible, more than one reason for considering land afforested is presented. Further, it is as clear for these forest villis and manors as for those in Huntingdonshire that common law and forest law existed side by side.

Whether in the covert of the forest, or the hays proper, there was a special machinery for pleas of the crown, is not made clear, however, by what can be known of Cannock Forest. A study of the perambulations of the hays,

¹³¹ *Historical Collections for Staffordshire*, v, pt. i, 166.

¹³² *Historical Collections for Staffordshire*, v, pt. i, 136, 145, 157.

¹³³ *Ibid.*, v. pt. i, 176.

with maps and non-forest records, shows that all the hays of Cannock were not like Weybridge, Herthey and Sapley, in being neither manor nor township. Hopewas, Alrewas and Bentley were manors, and cases concerning them were heard in common law courts. Evidence is lacking for Chistlyn, Gaunley, Oggly, and Teddesley. Since the Hundred Rolls are incomplete for Staffordshire, their silence proves nothing. There is no reason to suppose that Alrewas, Hopewas, or Bentley were any the less "covert" of the forest than the other four hays. We find nothing, then, in the Staffordshire material to suggest that common law was excluded from the covert of the forest. On the other hand, we find a great deal of evidence that common law was not excluded from the large district legally afforested during the thirteenth century, or even from certain of the hays, to wit, Hopewas, Alrewas and Bentley.

A map of Cannock and Kinfare, or Kinver, Forests on which are placed the names of only those villis or manors which on evidence of the plea rolls were afforested, shows that all of both districts, with the large exception of the Bishop of Lichfield's free chase of Cannock in the heart of the forest, and certain other smaller liberties, were acknowledged forest by the perambulators, and held responsible for breach of the forest law. The place names which occur over and over again in both forest and common law records are so numerous that there seems little doubt of the coexistence of the two laws, although there is some possibility of error in specific instances, even here. For example, according to the forest roll of 1300, Tunstall had been afforested since the time of King Henry Fitz Empress,¹³⁴ yet in a charter dated 21 September, 1267, Tunstall is expressly mentioned as not being "*infra metas forreste nostre*."¹³⁵ There may have been two Tunstalls in Staffordshire, or the charter may be wrong, but the presence of the contradiction shows that the whole question of what lands actually were afforested is a difficult one. Further, the 1300 roll states that Aldridge had been afforested since Henry II's time,¹³⁶ yet in 1271 only "*eodem . . . parte (of Aldridge) existente in foreste*"¹³⁷ was amerced for not coming fully to the eyre. Any township or manor about which there is conflicting evidence of this sort is dropped from the argument.

Note G to page 184, evidence of Rockingham Forest.

A study of the most important forest of Northamptonshire, Rockingham, confirms the thesis that forest law and common law at least frequently

¹³⁴ *Historical Collections for Staffordshire*, v, pt. i, 178.

¹³⁵ Cited by Turner, *Select Pleas of the Forest*, cxxiv.

¹³⁶ *Hist. Coll. Staff.*, v, pt. i, 178.

¹³⁷ *Ibid.*, 154.

existed side by side, but throws no special light on still obscure points. The other forests of the county, Salcey and Whittlewood, being partly also in Oxfordshire and Buckinghamshire, have not been inquired into.

The materials illustrating the struggles for the disafforestation of Rockingham are not extensive, but whenever mention of a perambulation is made, or whenever a perambulation exists, it falls into the general story of disafforestation as illustrated more copiously by Huntingdonshire and Staffordshire. There is evidence of orders for perambulations and disafforestments according to the Charter, in July, 1218,¹³⁸ and in November, 1219,¹³⁹ but no extant perambulations.¹⁴⁰ Justices were assigned in February, 9 Henry III, to determine the bounds in Northamptonshire,¹⁴¹ but again no record remains. In February, 11 Henry III, the transgressing perambulators came before the King, acknowledged their errors, and were pardoned,¹⁴² the perambulations they had enrolled being partially revoked in April of the next year. The bounds were pronounced law, and the land afforested, "except those parts which Henry II afforested, to wit, west" of a line from the bridge of Hauerberg (Market Harborough) south, by clearly followed directions, to Northampton, and that part of the county which is between the River Nen and Huntingdonshire.¹⁴³ There is the suggestion of a further perambulation in an order to the Sheriff of Northamptonshire, 26 March, 15 Henry III, that the knights who made the last perambulation should come before the King at Westminster to answer for their errors, but a note specifying that the bailiwicks of Salcey and Whittlewood be in the meantime untouched hints that it was not Rockingham, but the other forests, which were re-examined.¹⁴⁴ On the regard roll for Rockingham Forest in 14 Edward I is entered a record of the bounds of the forest, bounds which may be followed quite accurately, and which, with our knowledge of the history of disafforestation in general, show the extent of Rockingham during most of the century.¹⁴⁵ The forest is shown to be bounded by the River Nen from Northampton to Wansford, by the high road from Wansford to Stamford, by the River Welland from Stamford to Market Harborough, and from the latter to Northampton by

¹³⁸ *Pat. Rolls, 1216-1225*, 162.

¹³⁹ *Ibid.*, 259.

¹⁴⁰ Bazeley, *Extent of the Forest*, Appendix iii, and examination of the Class List in the Public Record Office.

¹⁴¹ *Pat. Rolls, 1216-1225*, 567.

¹⁴² *Pat. Rolls, 1225-1232*, 109.

¹⁴³ *Close Rolls, 1227-1231*, 102.

¹⁴⁴ *Close Rolls, 1227-1231*, 579.

¹⁴⁵ *Exch., T. of R., For. Proc.*, Roll 74.

a fairly direct line running south. Miss Bazeley, who has worked out the afforested area of Rockingham with all the documents available, so gives the limits on her map.¹⁴⁶ They accord with the limits given in the material noted above, and with the list of places proved to be subject to forest law by the Forest Eyre Roll of 1255,¹⁴⁷ and other sources. The matter apparently rested here until 1297, when Edward was obliged to supervise the perambulating of the forest as it was done in the time of Henry III, and "as it has never since been challenged."¹⁴⁸ However the perambulation of 14 February, 1300, or the lost perambulations of 1218 and 1219, may have restricted the afforested area as those of the same dates did in Huntingdonshire and Staffordshire, we may gather from the general history of disafforestments and other sources, that the restriction was not legal except for the few years after 1218.

There is no doubt that forest law and common law obtained at the same time in numerous places in Rockingham Forest. As in the discussion of other counties, care has been taken in the choice of afforested districts. All the places named were within the ascertained limits, and all appear as subject to forest law on the eyre rolls. It has not been thought necessary to give reference for each individual name. The evidence has all been taken from the Rolls printed by Turner in *Select Pleas of the Forest*, pages 27-38, and 79-116, and checked by reference to the calendars of Letters Close and Patent where inconsistent evidence is sometimes found. Every place named below, then, as subject to common law, is understood to have been subject to forest law, the dates being as nearly contemporaneous as possible.

Manorial organization existed at Corby, Cottingham, Benefield, Brigstock, Clive, Rowell, Brixworth, Grafton, Wadenhoe, Gretton, and Geddington.¹⁴⁹ The Abbot of Westminster had return of writs in Islip.¹⁵⁰ There was a manorial court at Rowell, with a franchise of assize of bread and ale.¹⁵¹ The Abbot of Peterborough had view of frankpledge at Cottingham.¹⁵² Suit was owed to the hundred court from Hannington, Dodding-

¹⁴⁶ Bazeley, *Extent of the Forest*.

¹⁴⁷ Printed in *Select Pleas of the Forest*.

¹⁴⁸ *Cal. Pat. Rolls, 1292-1301*, 312.

¹⁴⁹ *Rot. Litt. Claus.*, i, 479. (1221). This is early, of course, but manorial organization may be assumed to have been of a permanent character. *Ibid.*, i, 194, (1221), *Cal. Ch. Rolls 1257-1300*, 189 (1275), *Cal. Fine Rolls*, i, 324, (1293), *ibid.*, i, 324, (1293), *ibid.*, i, 18, (1274), *Cal. Pat. Rolls, 1258-1266*, 315, (1264), *ibid.*, 1247-1258, 539, (1257), *ibid.*, 1258-1266, 351, (1264), *ibid.*, 1258-1266, 75, (1260). *Cal. Close Rolls, 1279-1288*, 204, (1283).

¹⁵⁰ *R. H.*, ii, 7.

¹⁵¹ *Close Rolls, 1237-1242*, 96, (1238), *Abbrev. Plac.*, 234, 279, (1286).

¹⁵² *R. H.*, ii, 11.

ten, Lowick, Aldwinkle, Wodeford, Addington.¹⁵³ No information as to suit from forest lands to the county court has been found except one short notice of a plea concerning Grafton, the date of which, 1219, makes it unsafe to use.¹⁵⁴ The search, however, has not been exhaustive, and, of course, the material at best is fragmentary.

Numerous pleas dealing with land disputes, the advowson of churches, and markets, were heard in the King's courts. In assize or *banco* courts, pleas were heard regarding Addington, Islip, Carlton, Brixworth, Desborough, Braybrook, Corby, Rothwell, Woodford, Brampton, Rushton, Grafton, Irthlingborough, Slipton, Sudborough, Geddington, Newton, Oundle, Cottingham, Boughton, Gretton, and Little Weldon.¹⁵⁵ Many of these place names appear frequently in connection with pleas of land, or the like, but only one citation has been thought necessary in each case.

Criminal pleas concerning misdeeds committed within the forest are more difficult to find on the rolls, partly because civil pleas were inevitably more abundant. We find, however, an appeal for the robbery of the crop from an acre in Siberton, and some money, among the pleas of the crown printed by the Selden Society.¹⁵⁶ In the same volume of Crown pleas, is the declaration that the market of Rothwell had been moved from Sunday to Saturday.¹⁵⁷ Letters patent to the Sheriff of Northamptonshire disclose the fact that the men of Gretton had raised a gallows on which they had hung two outlaws.¹⁵⁸ The murder of Adam Miller of Woodford was appealed in the Sheriff Court of Northamptonshire.¹⁵⁹ The slayer of Roger de Geytington was imprisoned at Northampton.¹⁶⁰ It is not certain in this case, of course, that the crime was committed in Geytington. The holder of a messuage in Great Oakley was outlawed in 1275 for felony, and

¹⁵³ *R. H.* ii, 8, 7.

¹⁵⁴ *Rot. Litt. Claus.*, i, 392.

¹⁵⁵ *Br. N. B.*, ii, 627, case 820. (1233). *Ibid.*, ii, 532, case 693. (1232). *Pat. Rolls*, 1216-1225, 311. (1221). *Ibid.*, 1216-1225, 586. (1225). *Ibid.*, 1225-1232, 365. (1230). *Cal. Close Rolls*, 1288-1296, 150. (1290). *Ibid.*, 1288-1296, 151. (1290). *Abbrev. Plac.*, 234. (1294-1295). *Ibid.*, 41. (1203). *Ibid.*, 39. (1203). *Ibid.*, 41. (1203). *Ibid.*, 50. (1206-1207). *Ibid.*, 225. (1285). *Close Rolls*, 1234-1237, 534. (1237). *Ibid.*, 1247-1251, 227. (1249). *Br. N. B.*, iii, 83, case 1053. (1225). *Ibid.*, ii, 708, case 924. (1224). *Abbrev. Plac.*, 201. (1281). *Ibid.*, 199. (1280-1281). *Curia Regis Rolls*, i, 465. (1201). *Abbrev. Plac.*, 199. (1280-1281). *Cal. Close Rolls*, 1296-1302, 160 (1298).

¹⁵⁶ *Select Pleas of the Crown*, 48. (1203).

¹⁵⁷ *Ibid.*, 20. (1202).

¹⁵⁸ *Cal. Pat. Rolls*, 1232-1247, 65. (1234).

¹⁵⁹ *Close Rolls*, 1242-1247, 380. (1245).

¹⁶⁰ *Cal. Close Rolls*, 1272-1279, 164. (1275).

his lands and view of frankpledge fell into the King's hands.¹⁶¹ Stephen de Coton and others were imprisoned in the same year for the death of William le Charelder of Brampton.¹⁶² Peter de Dene of Geytington, "by misfortune, and not by felony or malice aforethought," according to the coroner's inquisition, "but led by frenzied passion, in crossing alone the sluices of the mill of Geytington towards Newton, casually" (surely accidentally would be a better translation for what is undoubtedly *casualiter* on the rolls) "fell into the water and was drowned."¹⁶³

The above evidence sufficiently proves that the legal obligations of Rockingham Forest were similar to those of Huntingdon and Cannock. No problems of hay or covert come up in this study of Rockingham. The perambulations, it is true, which might give information of small areas especially subject to forest law, or of areas of peculiar physical characteristics, are missing, but the silence of all other records, and certain positive facts, suggest that Rockingham was like Cannock in not having hays like Weybridge which were extra-manorial, and where possibly in the case of felonies, common law did not hold. As in the case of Cannock and Huntingdon, however, Rockingham Forest was divided into districts, or bailiwicks. The divisions most often mentioned in the records are Rockingham (sometimes the name of a bailiwick, sometimes the inclusive name for the whole forest), Clyve, or King's Cliff, Geddington, and Brigstock.¹⁶⁴ The nomenclature of these varies; Geddington is sometimes called *foresta*,¹⁶⁵ Brigstock, *foresta* or *parcus*,¹⁶⁶ Clive is sometimes called *foresta*.¹⁶⁷ All four were manors, not extra-manorial, like Weybridge and Sapley.¹⁶⁸ As has been seen, common law ran at least in Geddington. Further evidence of the power of common law courts in Rockingham Forest is given in the records of cases where the breach of forest law was tried in the courts *de Banco*, and *Coram Rege*.¹⁶⁹

Note H to page 184, scattered evidence.

A rapid examination of forest eyre rolls for various counties has resulted in a list of townships responsible for the administration of forest law. This list has been checked by attempts to find out from other sources whether

¹⁶¹ *Cal. Close Rolls, 1272-1279*, 139.

¹⁶² *Cal. Close Rolls, 1272-1279*, 164.

¹⁶³ *Fine Rolls*, i, 240. (1287).

¹⁶⁴ See, for example, *Rot. Litt. Claus.*, i, 393.

¹⁶⁵ *Close Rolls, 1231-1234*, 59.

¹⁶⁶ *Close Rolls, 1231-1234*, 92, 59.

¹⁶⁷ *Rot. Litt. Claus.*, ii, 197.

¹⁶⁸ *Pat. Rolls, 1216-1225*, 240; *Cal. Fine Rolls*, i, 324; *Cal. Close Rolls, 1279-1288*, 204.

¹⁶⁹ *Abbrev. Placit.*, 278, 199.

forest law was consistently in force in those townships. The places whose names are cited are in all cases known to have appeared at forest eyre or inquisition, in most cases to have been within ascertainable bounds at the time, and stated in perambulations to have been afforested by Henry II, or before his time. It has frequently been difficult to find information concerning so necessarily limited a list in common law records, but in no case in this group is the story of common law courts complete.

To begin with Buckinghamshire.¹⁷⁰ Brill,¹⁷¹ Wotton,¹⁷² Haversham,¹⁷³ Hanslope,¹⁷⁴ Hamme,¹⁷⁵ Little Lenford,¹⁷⁶ Lothbury,¹⁷⁷ Gayhurst,¹⁷⁸ and Dorton,¹⁷⁹ were manors, there being manor courts with view of frankpledge at Brill,¹⁸⁰ Hoggeschawe,¹⁸¹ Tothwic,¹⁸² and Acle,¹⁸³ with view of frankpledge and pleas of ancient distress at Wotton¹⁸⁴ and Lotegarshall,¹⁸⁵ the latter having in addition assize of bread and ale and gallows,¹⁸⁶ and with regality franchises at Wotton, Hamme, Tothwick, and Hoggeschawe.¹⁸⁷ Pleas concerning land in the following afforested places were heard in the King's courts, either at Westminster, or on assize or eyre: Brill,¹⁸⁸ Fullbrook,¹⁸⁹ Hoggeschawe, Hanslope, Wotton, Luttegarshalle, and Horton.¹⁹⁰

¹⁷⁰ Authority for stating that the following Buckingham townships were afforested during the thirteenth century is to be found in *For. Proc., Exch., T. of R.*, roll 2, pleas for 40 Henry III; in *Journals of the House of Commons*, xlvii, 154f, article on *Forestry in Victoria County History*, Bucks, ii, 131, 132, for perambulations.

¹⁷¹ *R. H.*, i, 24.

¹⁷² *R. H.*, i, 42.

¹⁷³ *Ibid.*, i, 37.

¹⁷⁴ *Ibid.*, i, 37, 343.

¹⁷⁵ *Ibid.*, i, 42.

¹⁷⁶ *Ibid.*, i, 346.

¹⁷⁷ *Ibid.*, i, 347.

¹⁷⁸ *Ibid.*, i, 346.

¹⁷⁹ *Abbrev. Placit.*, 208. (1285).

¹⁸⁰ *R. H.*, i, 21.

¹⁸¹ *Ibid.*, i, 24.

¹⁸² *Ibid.*, i, 24.

¹⁸³ *Ibid.*, ii, 343.

¹⁸⁴ *Ibid.*, i, 24.

¹⁸⁵ *Ibid.*, i, 24 and 42.

¹⁸⁶ *Ibid.*, i, 42.

¹⁸⁷ *Ibid.*, i, 42.

¹⁸⁸ *Curia Regis Rolls*, i, 26. (1196).

¹⁸⁹ *Ibid.*, i, 96. (1199).

¹⁹⁰ *Ibid.*, i, 96. (1199). *Ibid.*, i, 402. (1201). *Abbrev. Placit.*, 217. (1289). *Ibid.*, 239. (1298-1299). *Ibid.*, 89 and 265. (1214 and 1274-1275).

William de Byrmingham, son of William de Byrmingham, a rebel who was killed at Evesham, came before the court to redeem his lands in the manor of Dorton.¹⁹¹ William de Meyne, parson of the church of Luttegarshalle, was found guilty of the stealing and carrying away of the wheat belonging to the Prior of Bermundsey.¹⁹²

From Cumberland, there is the following evidence. The tenant of the vill of Hotun was ordered in 1241 to come before the King in a matter concerning homage and service for the vill.¹⁹³ We find also a plea in the King's court concerning forty acres with appurtenances in Newton, Cumberland.¹⁹⁴ In the Peak Forest, Derbyshire, full seisin of the manor of Tideswell was assured by the court in 1231.¹⁹⁵ In 1286, an order went out to the Escheator beyond the Trent concerning the homages, fealties of tenants, perquisites of courts, and so on, in the same manor.¹⁹⁶ Inquisition was made in 1286 concerning the deed of feoffment between John and Richard and Joan of the manor of Tideswell, and thirty acres of land in Wormhill. It was found that by reason of the minority of Richard and Joan "a fine between them and the said John in the King's court could not be levied, and the said John ejected them from the manor, and they raised hue and cry."¹⁹⁷ In afforested Dorset,¹⁹⁸ Middleton, Gillingham, and Porstock, were manors,¹⁹⁹ Porstock and Middleton having courts, Middleton with assize of bread and ale, and gallows.²⁰⁰ In the King's court, we find a plea of land concerning Hasebere, in the same county.²⁰¹ The Hundred Rolls reveal that Walter de Wike took half a mark as bribe to say nothing concerning a felony at Gillingham.²⁰² John de Burgo had

¹⁹¹ *Abbrev. Placit.*, 208. (1285).

¹⁹² *Abbrev. Placit.*, 281. (1299).

¹⁹³ *Ibid.*, 109.

¹⁹⁴ *Ibid.*, 232. (1293). Hotun and Newton both appeared before the forest justices at Carlyle in 13 Edward I. *For Proc., Exch., R. of R.*, roll 5.

¹⁹⁵ *Close Rolls, 1227-1231*, 533.

¹⁹⁶ *Cal. Fine Rolls*, i, 229.

¹⁹⁷ *Cal. Inq. P. M.*, ii, 357. Both Tideswell and Wormhill were within the bounds of the forest as defined in 1286, and appeared at the eyre of 1251. *Victoria County History for Derbyshire*, i, 397f, article on *Forestry*, where the perambulation is quoted in full, and the eyre given in extract.

¹⁹⁸ *Victoria County History, Dorset*, ii, 288, article on *Forestry*, gives references concerning perambulation. See also *For. Proc., Exch., T. of R.*, roll 10, for pleas of 1259.

¹⁹⁹ *R. H.*, i, 103, 101, 97.

²⁰⁰ *Ibid.*, i, 103, 97.

²⁰¹ *Curia Regis Rolls*, i, 387. (1201).

²⁰² *R. H.*, i, 98.

return of writs at Stanway, Essex,²⁰³ and John Canning, the Shepherd, was appealed of theft of sheep at the same place.²⁰⁴ At an inquisition held at Laxedone, Essex, it was found that the abbot of Waltham had appropriated forty acres of land in Little Stanway.²⁰⁵ Among the *post mortem* inquisitions, is the record of the extent of the manor of Farnham, Hampshire.²⁰⁶ Pleas concerning privileges in Sutton, in Sherwood Forest,²⁰⁷ came twice before the King's court,²⁰⁸ and a like plea concerning land in Clipston, in the same forest.²⁰⁹ Esthalle, Charlebury, Teynton, Cuddington, Swynbrook, Fullbrook, and Spelsbury,²¹⁰ were afforested manors in Oxfordshire,²¹¹ Esthalle,²¹² Charlebury, Spelsbury, and Cuddington,²¹³ having view of frankpledge, suit being owed from Charlebury, Spelsbury, Teynton, Swynbrook,²¹⁴ and Cuddington,²¹⁵ to manor, hundred, or county courts, or all three. There were gallows in Charlebury and Spelsbury.²¹⁶ A plea concerning land in Swynbrook was heard in the King's court in 1294.²¹⁷ William de Moneta took half a mark from William de Linham of Teynton, indicted at the view of frankpledge for robbery and felony.²¹⁸ In the Forest of Rutland,²¹⁹ Leye and Glaston were manors.²²⁰ The free tenants of Lidington owed suit to the view of frankpledge and twice a year to the

²⁰³ *Ibid.*, i, 155. Evidence that Essex townships here discussed were afforested is to be found in Fisher, *Forest of Essex*, *passim*, *Victoria County History for Essex*, ii, article on *Forestry*, 617f, J. H. Round, *Forest of Essex*, and *For. Proc., Exch., T. of R.*, roll 12.

²⁰⁴ *Select Coroners' Rolls*, Selden Society, 129. (1288).

²⁰⁵ *Cal. Misc. Inq.*, i, 441. (1292).

²⁰⁶ *Cal. P. M. Inq.*, ii, 132. (1277). See *Journals of the House of Commons*, xlv, 574, for perambulation, and *For. Proc., Exch., T. of R.*, roll 158 for pleas.

²⁰⁷ See Turner, *Select Pleas of the Forest*, 119, and *Rot. Litt. Claus.*, ii, 203, for perambulations, and *For. Proc., Exch. T. of R.*, roll 127, for pleas.

²⁰⁸ *Abbrev. Placit.*, 224, 230. (1290-1291, 1293).

²⁰⁹ *Curia Regis Rolls*, i, 22. (1196).

²¹⁰ *R. H.*, ii, 694, 705, 733, 734, 737, 744, 746.

²¹¹ *Victoria County History for Oxfordshire*, ii, article on *Forestry*, and *For. Proc., Exch., T. of R.*, roll 137. Eyre 56 Henry III.

²¹² *R. H.*, ii, 694.

²¹³ *R. H.*, ii, 709. *Ibid.*, ii, 746. *Ibid.*, ii, 877.

²¹⁴ *R. H.*, ii, 709. *Ibid.*, ii, 746. *Ibid.*, ii, 733. *Ibid.*, ii, 737.

²¹⁵ *Ibid.*, ii, 877.

²¹⁶ *Ibid.*, ii, 709. *Ibid.*, ii, 746.

²¹⁷ *Abbrev. Placit.*, 233.

²¹⁸ *R. H.*, ii, 34.

²¹⁹ See *Victoria County History for Rutland*, i, article on *Forestry*, *Rot. Litt. Claus.*, ii, 208, *Select Pleas of the Forest*, xciv, 53, 116, 6, and 43, and *For. Proc., Exch., T. of R.*, roll 139, for full material concerning perambulations and pleas.

²²⁰ *Abbrev. Placit.*, 188 and 206. (1275-1276 and 1284).

hundred.²²¹ In the rolls of the King's courts, land in Leye, Glaston, Uppingham, and Pilton²²² is shown to have been disputed. In 1262, there was an inquisition held at Farnham, Surrey,²²³ concerning the lands in the hundred of Farnham, of Reynold le Pykard, outlawed for felony. It was recorded that he had half a hide at Bagshot.²²⁴ In 1246, there was a plea before the Barons of the Exchequer concerning land in the same place.²²⁵ Wocking was a manor within the afforested district of Surrey.²²⁶ William de Beauchamp was summoned before the King at Worcester to answer the Prior of Kenilworth why he *vi et armis* made waste in the wood of the Prior which is in the Forest of the Lord King of Feckenham.²²⁷ The Abbot of Gerwedon impleaded John Comyn and eight others for taking a hundred of his pigs in the Forest of Charnwood.²²⁸ At the Shropshire Eyre of 1203, not a forest eyre, William appealed Walter "for that there came five men in the forest of Haughmond, and there in the King's peace assaulted him and his lord, and killed his lord."²²⁹ At the Worcestershire Eyre, the case of Gilbert who was slain in the forest of Malvern was recorded.²³⁰ Gilbert de Preston was ordered to take pleas of the crown in Northamptonshire, and to enquire diligently about William de Fort of London and others who were recently robbed of their horses and harness in the King's forest of Salcey.²³¹ By letters patent of 10 November, 1292, Roger de Molis and others were given a commission of *oyer et terminer* touching the person who killed a forester in the forest of Bradene, Wilts, and further, all offenders in forests, chases, and parks in Bucks, Gloucestershire, Devon, Somerset, Dorset, Wilts, Southants, Oxfordshire, and Berks.²³²

Data such as the above show that the machinery of the common law extended within forest limits in a number of counties. Although the

²²¹ *R. H.*, ii, 54.

²²² *Abbrev. Placit.*, 188. (1275-1276). *Ibid.*, 206. (1284). *Curia Regis Rolls*, i, 148. (1200). *Abbrev. Placit.*, 87. (1213).

²²³ See *Victoria County History for Surrey*, ii, *Forestry*, *Rot. Litt. Claus.*, ii, 56, and *For. Proc., Exch., T. of R.*, roll 194, for afforested Surrey.

²²⁴ *Cal. Misc. Inq.*, i, 181.

²²⁵ *Close Rolls, 1242-1247*. 429. (1246).

²²⁶ *Abbrev. Placit.*, 200. (1281).

²²⁷ *Abbrev. Plac.*, 105. (1238).

²²⁸ *Ibid.*, 230. (1293).

²²⁹ *Select Pleas of the Crown*, 36.

²³⁰ *Ibid.*, 82. (1221). Charnwood, Haughmond, and Malvern are not called forests of the King, and so may not belong strictly to this study.

²³¹ *Plac. Abbrev.*, 139. (37 Henry III).

²³² *Cal. Pat. Rolls, 1281-1292*, 522.

material is scattered, and points particularly to pleas other than pleas of the crown, it is clear that conditions in afforested lands throughout England during the thirteenth century were, in general, analogous to those in Huntingdonshire, Staffordshire, Northamptonshire, and Somersetshire.

Note I to page 190, Forest of Dean.

Aside from the variation from the usual procedure as discussed on pages 188 to 190, in the larger part of the forest, customary conditions prevailed in this forest as in others. The evidence follows.

First we note from the common law record that juries from the vill of Newnham and the hamlet of Westbury presented their own pleas at the eyre court. These places are close to the eastern border of the present forest, Newnham within the restricted area which the perambulators tried in vain to establish as the forest, Westbury just without, in the district claimed by the King as forest. There is no apparent reason why only these two afforested places should have appeared by juries, but one may suppose it custom, which varied greatly in such matters from place to place even in non-forest areas.²³³ Second we find that the roll of the 1221 eyre contains note of many places we know to have been within the forest but not the covert, during the thirteenth century. It must be admitted that in the case of other counties, the year 1221 would be accounted a doubtful year; it was between 1218 and 1227 that the discussion and disagreement between the King and the country led to so many perambulations. It seems probable, however, that had these places been very recently, and as it proved, temporarily, released from the forest system, and had they as a result swung thus into common law status, we should have some mention of it in the roll. As it is, we find many places, afforested according to all the evidence, subject to the jurisdiction of the justices. In regular course, pleas of the crown concerning events in Weston, Newnham, Alvington, Newent, Killicote, Lidney, Morton, Hamme, Minstreworth, Bulley, Lea and Rodley were presented at the eyre of 1221 before the Abbot of Reading by appropriate juries.²³⁴ These cases concern theft, slaying, wounding, drowning, driving away cattle, and obstruction of roads.

The scattered material to be found throughout the volumes of letters, pleas, and inquisitions, contradicts none of this evidence, and adds a few names to the list of afforested places which were responsible also to the common law. The dates of these pleas present no difficulty.

Among the inquisitions held so constantly concerning lands throughout

²³³ The plea rolls for Somersetshire give interesting evidence on this point.

²³⁴ *Pleas of the Crown for Gloucester*, 4, 82, 85, 86, 92, 23, 51, 76, 79, 78, 81.

England, are many concerning manors within the thirteenth-century bounds of the Forest of Dean. In some cases, the fact that the land under discussion is *infra foresta* is mentioned in the document. The list includes St. Briavels,²³⁵ Awre, Purton, Blaisdon, Bulley, Ettelowe, Ailberton,²³⁶ Rodley, and Longhope, Teynton, La Box, Great Dean, Blakeney,²³⁷ and Little Dean.²³⁸ Rodley and Minstreworth had view of frankpledge.²³⁹ Pleas at Ruardean were worth two shillings.²⁴⁰ Suit was owed from Newland to the court at St. Briavels,²⁴¹ and from a messuage in Lydney, to the court at Lydney.²⁴² There was a halimote at Awre.²⁴³

Cases were heard in the King's courts concerning the advowson of the church of Ruardean,²⁴⁴ the ownership of an apparatus for taking fish in the Severn near Newnham,²⁴⁵ the warranty of charters concerning land in Awre,²⁴⁶ Lydney and Purton, concerning land in Lydney, Coleford,²⁴⁷ and Mitcheldean.²⁴⁸ At an assize court held at Oxford, query was made whether Walter de Clemson had been seized of land in Bulley.²⁴⁹ In 1225, a plea of novel disseisin was heard concerning the free tenement of Thomas de Stanton, in Stanton.²⁵⁰ Among the many inquisitions concerning the lands of men outlawed or hanged for felony, we find such as the following: an inquisition concerning a messuage in Ruardean which William Baret, who was outlawed for felony, found that the messuage had been held in the King's hand for a year and a day.²⁵¹ Similar notices occur on the rolls

²³⁵ *Cal. Inq. P. M.*, i, 235. (1270).

²³⁶ *Ibid.*, i, 226. (1269). *Ibid.*, i, 226. (1269). *Ibid.*, i, 192. (1265). *Ibid.*, i, 193. (1265). *Ibid.*, ii, 288. (1283). *Ibid.*, ii, 357. (1286).

²³⁷ Both, *ibid.*, ii, 60. (1274). *Ibid.*, ii, 8. (1272). *Ibid.*, i, 139. (1261). *Ibid.*, i, 119. (1259). *Ibid.*, iii, 2. (1292).

²³⁸ *Ibid.*, iii, 37. (1292).

²³⁹ *Close Rolls, 1237-1242*, 367.

²⁴⁰ *Cal. Inq. P. M.*, iii, 256. (1297).

²⁴¹ *Cal. Misc. Inq.*, i, 1219-1307, 37. (1251).

²⁴² *Cal. Inq. P. M.*, ii, 335; this was an inquisition at Stanton, in the forest, 1285.

²⁴³ *Ibid.*, iii, 254. (1296).

²⁴⁴ *Curia Regis Rolls*, i, 213. (1200).

²⁴⁵ *Ibid.*, i, 13. (Temp. Rich. I.)

²⁴⁶ *Ibid.*, i, 280. (1200).

²⁴⁷ *Ibid.*, i, 280. (1200). *Ibid.*, i, 280. (1200). *Close Rolls, 1227-1231*, 407. (1230). *Cal. Close Rolls, 1288-1296*, 45. (1289).

²⁴⁸ *Ibid.*, 1289-1296, 327. (1293).

²⁴⁹ *Abbrev. Placit.*, 118. (1251).

²⁵⁰ *Abbrev. Placit.*, 102.

²⁵¹ *Cal. Misc. Inq.*, i, 414. (1289)

concerning Great Dean,²⁵² Newnham,²⁵³ Bulley,²⁵⁴ Rodley and Minstreworth.²⁵⁵ By writ of the King, the Sheriff of Gloucestershire was ordered to take with him the keeper of the pleas of the crown and to inquire by a jury not of the manors of Newnham or Minstreworth, whether Thomas Folyot, late rector of Westbury, held all his life the chapels of Newenham and Minstreworth as pertaining to his church.²⁵⁶ "Walter le Kallere, captured and detained in the prison of the King in Gloucester for the death of a certain man killed at Newent, of which he has been accused, has a writ to be placed on bail until the coming of the justices."²⁵⁷

Thus it is found that even in the Forest of Dean, where verderers not coroners presented pleas of the crown concerning the covert of the forest, forest law and common law nevertheless existed side by side. Inhabitants of afforested townships came before forest justices to answer for offenses against the vert and venison, and before common law courts to answer for crimes against the King's peace, or to settle their constant disputes.

²⁵² *Ibid.*, i, 415. (1289).

²⁵³ *Ibid.*, i, 451. (Inquisition in full county, 1293.)

²⁵⁴ *Ibid.*, i, 363. (Inquisition before Sheriff and coroners, 1281.)

²⁵⁵ *Cal. Fine Rolls*, i, 309. (1292.)

²⁵⁶ *Cal. Misc. Inq.*, i, 90. (1261).

²⁵⁷ *Close Rolls*, 1237-1242, 468. (1242).

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